

NORTH CAROLINA GENERAL ASSEMBLY

NORTH CAROLINA SENATE

TRANSCRIPT OF THE PROCEEDINGS

FLOOR SESSION

In Raleigh, North Carolina

Thursday, February 18, 2016

Reported by Robbie W. Worley

Worley Reporting

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Raleigh, NC 27624

919-870-8070

1 CLERK: Date of 215 -- 2015 North 2 Carolina General Assembly call of the roll, 2016 3 extra session. 4 Alexander? 5 SEN. ALEXANDER: Here. 6 CLERK: Apodaca? 7 SEN. APODACA: Here. 8 CLERK: Barefoot? 9 SEN. BAREFOOT: Here. 10 CLERK: Barringer? 11 SEN. BARRINGER: Here. 12 CLERK: Berger? 13 SEN. BERGER: Here. 14 CLERK: Bingham? Bingham? 15 (No response) 16 CLERK: Blue? 17 REP. BLUE: Present. 18 CLERK: Brock? 19 SEN. BROCK: Here. 20 CLERK: Brown? 21 SEN. BROWN: Here. 22 CLERK: Bryant? 23 SEN. BRYANT: Present. 24 CLERK: Clark? 25 SEN. CLARK: Present.	6	1 SEN. J. JACKSON: Present. 2 CLERK: Krawiec? 3 SEN. KRAWIEC: Here. 4 CLERK: Lee? Lee? 5 (No response) 6 CLERK: Lowe? 7 SEN. LOWE: Here. 8 CLERK: McInnis? McInnis? 9 (No response) 10 CLERK: McKissick? 11 SEN. MCKISSICK: Here. 12 CLERK: Meredith? 13 SEN. MEREDITH: Here. 14 CLERK: Newton? 15 SEN. NEWTON: Here. 16 CLERK: Pate? 17 SEN. PATE: Here. 18 CLERK: Rabin of Harnett? 19 SEN. RABIN: Here. 20 CLERK: Rabon of Brunswick? 21 SEN. RABON: Here. 22 CLERK: Randleman? 23 SEN. RANDLEMAN: Here. 24 CLERK: Robinson? 25 SEN. ROBINSON: Here.	8
1 CLERK: Cook? 2 SEN. COOK: Here. 3 CLERK: Curtis? 4 SEN. CURTIS: Here. 5 CLERK: Daniel? 6 SEN. DANIEL: Here. 7 CLERK: D. Davis? 8 SEN. D. DAVIS: Here. 9 CLERK: J. Davis? 10 SEN. J. DAVIS: Here. 11 CLERK: Ford? 12 SEN. FORD: Present. 13 CLERK: Foushee? 14 SEN. FOUSHEE: Present. 15 CLERK: Gunn? 16 SEN. GUNN: Here. 17 CLERK: Harrington? 18 SEN. HARRINGTON: Here. 19 CLERK: Hartsell? 20 SEN. HARTSELL: Here. 21 CLERK: Hise? 22 SEN. HISE: Here. 23 CLERK: B. Jackson? 24 SEN. B. JACKSON: Here. 25 CLERK: J. Jackson?	7	1 CLERK: Rucho? 2 SEN. RUCHO: Here. 3 CLERK: Sanderson? 4 SEN. SANDERSON: Here. 5 CLERK: Smith? 6 SEN. SMITH: Here. 7 CLERK: Smith-Ingram? Smith-Ingram? 8 (No response) 9 CLERK: Soucek? 10 SEN. SOUCEK: Here. 11 CLERK: Stein? Stein? 12 SEN. STEIN: Here. 13 CLERK: Tarte? 14 SEN. TARTE: Here. 15 CLERK: Tillman? 16 SEN. TILLMAN: Here. 17 CLERK: Tucker? 18 SEN. TUCKER: Here. 19 CLERK: Van Duyn? Van Duyn? 20 (No response) 21 CLERK: Waddell? 22 SEN. WADDELL: Present. 23 CLERK: Wade? 24 SEN. WADE: Here. 25 CLERK: Wells.	9

<p>1 SEN. WELLS: Here. 2 CLERK: Woodard? 3 SEN. WOODARD: Present. 4 LT. GOV. FOREST: With 45 members present 5 and having properly received and subscribed to the 6 oath of office, a quorum is present. 7 The Constitution of North Carolina, 8 General Statutes and the Senate Rules of the 2015 9 Regular Session provide for two-year terms for 10 Senate officers. Without objection, the record 11 will reflect that the officers of the 2015 regular 12 session shall serve as officers of this extra 13 session.</p> <p>14 Senator Apodaca is recognized. 15 SEN. APODACA: Thank you, Mr. President. 16 I'd like to send forth rules for the 2016 Extra 17 Session of the General Assembly for filing, 18 introduction, and for immediate consideration, 19 please. 20 LT. GOV. FOREST: You can send forward 21 your rules. Introduction of resolution, the Clerk 22 will read. 23 CLERK: Senate resolution. A Senate 24 resolution adopting the permanent rules of the 25 Senate for the 2016 Extra Session of the General</p>	<p>1 the rules? 2 All right. Just for the record, 3 Senators, this has been filed appropriately, and a 4 PDF of the rules, for those of you who may be out 5 there listening, will be up on the website 6 momentarily under the news and information section. 7 So let's get back to business. Senator 8 Apodaca is recognized to explain the resolution. 9 SEN. APODACA: Thank you, Mr. President, 10 members. 11 Let me say up front, what we have here 12 are amendments to our existing rules. So our 13 existing rules still are in effect. These will be 14 amendments to said rules. So we'll have plenty of 15 rules for everybody going forward. 16 These rules track closely the rules that 17 were adopted during the 2003 Extra Session for 18 redistricting. There are only a handful of 19 changes. 20 We will operate mainly under the same 21 rules we use in regular session. The main rules 22 here limit the scope of bills that are eligible, 23 and ensure that we can only have bills voted on in 24 one day. 25 Now, what I'd like to do is I'll go</p>
<p>11</p> <p>1 Assembly. Sponsor, Senator Apodaca. 2 LT. GOV. FOREST: Senate Resolution 1, 3 the Clerk will read. 4 CLERK: Senate resolution. A Senate 5 resolution adopting the permanent rules of the 6 Senate for the 2016 Extra Session of the General 7 Assembly. 8 LT. GOV. FOREST: Senators, we're going 9 to stand at ease for just a moment while we get the 10 rules up on your dashboard. 11 (At ease.) 12 LT. GOV. FOREST: All right, everybody. 13 I'm just going to give you a quick housekeeping 14 update as we continue to just stand at ease. But 15 we're going to -- we're having some technical 16 difficulties here with the dashboard, so we're 17 going to pass out paper copies the old fashioned 18 way. And so just bear with us while we're doing 19 that and having the IT folks get the PDF of this, 20 as well, up on the Internet so everybody can see 21 it. 22 (At ease.) 23 LT. GOV. FOREST: All right, Senators. 24 Let's come back to order. Does everybody have a 25 copy of the rules? Does anybody not have a copy of</p>	<p>13</p> <p>1 through and hit the high points of what the actual 2 amendments are. 3 31.2 authorizes Standing and Select 4 Committees, Redistricting, and Rules. 5 36.2 requires that amendments to 6 redistricting plan be offered in committee if they 7 are being offered on the floor. Let me say that 8 again. Requires that amendments to redistricting 9 plan be offered in committee if they going to be 10 offered on the floor and that they contain a whole 11 plan with a map. 12 40 allows bills to be introduced and read 13 on the same day of their filing. 14 40.1 limits scopes of bills to 15 redistricting plans for House of Representatives 16 of -- of House of Reps, of Congress, and to the 17 bills provided for the scheduling and 18 implementation of primary. 19 41, this is normally the crossover rule. 20 We are reserving this rule so there is no 21 eligibility for those bills. 22 43 allows for introduction, first 23 reading, and referrals to committee to occur on the 24 same day. 25 43.1 requires all bills that are reported</p>

1 in -- for committee to be immediately considered 2 for second reading. 3 Rule 50 requires that second reading -- 4 requires that after second reading, a bill will be 5 calendared for immediate consideration on third 6 reading. 7 Rule 56.1 allows the Senate to concur and 8 an amendment or a committee substitute of the House 9 on the same day it is received. 10 And rule 59, this rule is reserved so 11 that bills may be sent to the House on the same day 12 the Senate votes on them. 13 I recommend these changes to you. 14 LT. GOV. FOREST: Do we have any 15 discussion or debate on the resolution? 16 Senator Blue, for what purpose do you 17 arise? 18 SEN. BLUE: Well, will Senator Apodaca 19 yield for a question? 20 LT. GOV. FOREST: Senator Apodaca, do you 21 yield? 22 SEN. APODACA: Yes, sir. 23 SEN. BLUE: Senator Apodaca, in Rule 24 40.1, the limitation and introduction in 25 consideration of resolutions, as I read this,	14 1 pretty quickly, so no need in us thinking 2 otherwise. And it makes sense to do all of this in 3 one day, and I'm in general agreement with that. 4 But the only provision of this -- this 5 resolution that I find somewhat offensive, because 6 it limits us talking about the real issue in this 7 case, and that is the process by which we go 8 through this redistricting stuff. 9 It limits the ability to put forth 10 workable solutions to redistricting so that we're 11 able to get this highly political thing out of 12 highly political minds who think of nature's first 13 rule in doing everything, and that is self- 14 preservation and then preservation of their 15 friends. 16 I think it's an excellent resolution 17 except for that limitation and restriction. And 18 for that reason, I will vote against the 19 resolution. 20 LT. GOV. FOREST: Do we have any further 21 discussion or debate? Senator Stein, for what 22 purpose do you rise? 23 SEN. STEIN: To see if Senator Apodaca 24 will yield to a question. 25 LT. GOV. FOREST: Senator Apodaca, do you
1 the -- you could not offer any amendment to the 2 redistricting bill, any textual or substantive 3 amendment, unless it pertains specifically to the 4 2016 Congressional primary, is that right? 5 SEN. APODACA: Yes, sir. 6 SEN. BLUE: Another question? 7 LT. GOV. FOREST: Senator Apodaca, do you 8 yield? 9 SEN. APODACA: Yes, I do. 10 SEN. BLUE: And so anything relating to 11 procedure under this rule would then be ruled out 12 of order? 13 SEN. APODACA: Yes, sir. 14 SEN. BLUE: Speak on the bill, Mr. 15 President? 16 LT. GOV. FOREST: Senator Blue, you have 17 the floor. 18 SEN. BLUE: Thank you very much, and -- 19 Mr. President and ladies and gentlemen of the 20 Senate. 21 For the most part, I think that this 22 simple resolution makes good sense. All of us want 23 to go ahead and get it over with. I'm reminded of 24 the Alabama football slogan, "Roll tide." And -- 25 and I know that it's going to roll around here	15 1 yield? 2 SEN. APODACA: Yes, sir. 3 SEN. STEIN: Just to follow up on the 4 same provision that Senator Blue was just 5 discussing, the Rule 36.2, would you be amenable to 6 having this apply only if the amendment pertained 7 to actually a new redistricting map, as opposed to 8 some policy provision as it deals with 9 redistricting? 10 The reason I ask is, I -- I understand if 11 we were to put forward a new map, y'all would need 12 time to analyze it, and I don't think there's any 13 intention on our side to offer a new map. But it 14 seems a bit unfair to have a rule that precludes 15 any policy amendments for a committee meeting that 16 already occurred before we knew that we would have 17 to have offered it in that committee and then the 18 rule comes in the next day later. 19 SEN. APODACA: Senator Stein, our purpose 20 with this is to have as much of this aired out in 21 the committee environment more so that on the 22 floor, where we can deal with it more specifically 23 and, you know, in a little more depth. So at this 24 point, I would prefer that we leave it as-is. 25 Thank you, though.

1 SEN. STEIN: Follow-up question? 2 LT. GOV. FOREST: Senator, do you yield 3 for follow-up? 4 SEN. APODACA: Yes. 5 SEN. STEIN: Is the committee going to 6 reconvene after we adjourn today, or is the 7 committee done meeting? 8 SEN. APODACA: No, we're reconvening. We 9 were supposed to reconvene at 11:00. 10 SEN. STEIN: Thank you. 11 SEN. APODACA: Yes. 12 LT. GOV. FOREST: Any further discussion 13 or debate? 14 (No response) 15 LT. GOV. FOREST: Hearing none, question 16 for the Senate is the motion to adopt Senate 17 Resolution 1. We'll have one electronic vote. 18 All in favor vote "aye," opposed vote 19 "no." Five seconds will be allowed for the voting. 20 Clerk will record the vote. 21 SEN. BRYANT: Mr. President? 22 LT. GOV. FOREST: Senator Stein, for what 23 purpose do you rise? 24 SEN. STEIN: Senator Stein votes no. 25 LT. GOV. FOREST: Thank you, Senator. I	18	1 LT. GOV. FOREST: You can send that 2 forward, Senator. 3 SEN. RUCHO: I'll bring it up, yes, sir. 4 And also a copy of this report will also delivered 5 to the President Pro Tem in the Speaker's office. 6 LT. GOV. FOREST: All right. Thank you, 7 Senator. Senator Apodaca is recognized. 8 SEN. APODACA: Mr. President, I think 9 Senator Rucho meant to make an announcement also 10 about a committee meeting at 11:00 in 643 for 11 Senate redistricting. And, Senator Stein, at that 12 meeting, we'll be happy to hear amendments anybody 13 has. So we'll have 643 at 11:00 a.m. Is that 14 true, Senator Rucho? Thank you. 15 SEN. RUCHO: Mr. President? 16 LT. GOV. FOREST: Senator Rucho? 17 SEN. RUCHO: Yes. To reiterate, Senator 18 Apodaca, we will have a Senate Redistricting 19 Committee beginning at 11:00 at 643. I -- I 20 request that all members do your best to attend 21 because we're going to be discussing this bill in 22 its entirety, and it'll be a good opportunity for 23 you to have a chance to review it. 24 And I'd also request that everyone that 25 does have the hard copy of the maps and the	20
1 was trying to do the count and figure out where we 2 were missing a number. 3 SEN. BRYANT: Mr. President? 4 LT. GOV. FOREST: Senator Bryant, do you 5 want to change your vote from aye to nay? Okay. 6 There we go. 7 33 having voted in the affirmative and 14 8 in the negative, Senate Resolution 1 is adopted. 9 Let the record reflect, as well, that 10 Senator Lee is present. 11 At this time the Chair directs the 12 Principal Clerk to send a message to the House of 13 Representatives, informing that honorable body that 14 the Senate is now ready to proceed with the 15 business for which it has been reconvened. 16 Senators' leaves of absence are requested 17 with your approval and are granted for Senators 18 Bingham, McInnis, and Van Duyn. 19 Senator Apodaca is recognized. 20 Senator Rucho, for what purpose do you 21 rise? 22 SEN. RUCHO: Mr. President, I rise to 23 submit a -- the Joint Select Committee 24 Congressional Redistricting report for the 2016 25 Extra Session.	19	1 power -- the data packs, please bring them with 2 you. Thank you, Mr. President. 3 LT. GOV. FOREST: Thank you, Senator. 4 Senator -- 5 SEN. PATE: Mr. President? 6 LT. GOV. FOREST: Senator Pate is 7 recognized. 8 SEN. PATE: Thank you, Mr. President. 9 I'd like to make an announcement. 10 LT. GOV. FOREST: Senator Pate, you have 11 the floor. 12 SEN. PATE: The President Pro Tem 13 appoints the following Senators to the Senate 14 Redistricting Committee for the 2016 Extra Session. 15 Senator Bob Rucho, chair, Senator Tom 16 Apodaca, vice chair, Senator Ted Barefoot, Senator 17 Dan Blue, Senator Harry Brown, Senator Ben Clark, 18 Senator Joel Ford, Senator Kathy Harrington, 19 Senator Ralph Hise, Senator Brent Jackson, Senator 20 Michael Lee, Senator Floyd McKissick, Senator 21 Shirley Randleman, Senator Norman Sanderson, 22 Senator Jane Smith, Senator Erica Smith-Ingram, 23 Senator Trudy Wade, Senator Andy Wells. 24 LT. GOV. FOREST: Senator Apodaca is 25 recognized.	21

<p>1 SEN. APODACA: Thank you, Mr. President. 2 Chairman Rucho wanted me to let the body know that 3 anyone, any member of this body may be able to 4 present an amendment in this committee on 5 redistricting. So you do not have to be a member 6 of the committee. 7 That being said, Mr. President, I move 8 that the Senate stand in recess subject to the 9 standard stipulations set forth in Rule 24.1, the 10 filing of bills, the receipt of committee reports, 11 committee appointments, and messages from the 12 House, to reconvene today at 2:00 pm. 13 LT. GOV. FOREST: Thank you, Senator. 14 The Senate will stand in recess until 2:00 pm this 15 afternoon. 16 (RECESS) 17 CLERK: Message from the House. Mr. 18 President, pursuant to a proclamation issued by 19 Governor Pat McCrory on February 17, 2016, it is 20 ordered that a message be sent to the Senate 21 informing that honorable body that the House of 22 Representatives have organized and is now ready to 23 proceed with the public business of the State of 24 the Extra Session of the 2015 General Assembly. 25 Respectfully, Denise Weeks, Principal Clerk.</p>	<p>22</p> <p>1 District. Respectfully, Denise Weeks, Principal 2 Clerk. 3 CLERK: Redistricting Committee report. 4 Senate Bill 2, unfavorable as to bill, but 5 favorable as committee substitute bill. 2016 6 contingency Congressional plan. Calendar. 7 (RECESS) 8 LT. GOV. FOREST: Ladies and gentlemen, 9 we are waiting for the maps to be printed and 10 bought in, so as soon as they get here, we'll 11 start. 12 (At ease.) 13 LT. GOV. FOREST: The Senate will come to 14 order. Sergeant-at-Arms, close the doors. Members 15 go to their seats. Once again, we'll ask all 16 members and guests in the gallery to silence all 17 your electronic devices. 18 SEN. APODACA: Mr. President? 19 LT. GOV. FOREST: Senator Apodaca, for 20 what purpose do you arise? 21 SEN. APODACA: Mr. President, as we move 22 forward this afternoon, I'd like to move the rules 23 be suspended to the end so the staff may be able to 24 join us on the floor. 25 LT. GOV. FOREST: Without objection, so</p>
<p>1 (RECESS) 2 CLERK: Introduction of bills. Senate 3 Bill Number 2, enact to realign the congressional 4 districts as recommended by the Joint Select 5 Committee on Congressional Redistricting to comply 6 with the court order in the Harris v. McCrory. 7 Sponsor, Senator Rucho. Filed February 16, 2016. 8 Passed first reading. Referred Redistricting. 9 Correction. Filed February 18. Referred 10 Redistricting. 11 CLERK: Message from the House. Mr. 12 President, it is ordered that a message be sent to 13 the Senate, information that honorable body that 14 pursuant to proclamation issued by Governor Pat 15 McCrory on October 19th, 2015, and November 23rd, 16 2015, Jeffrey -- Gregory F. Murphy and Kyle Hall 17 have been administered the oath of office as 18 members of the House of Representatives for the 19 remainder of the 2015 - 2016 General Assembly. 20 Representative Gregory F. Murphy has been 21 seated to fill the vacancy created by the 22 resignation of Representative Brian Brown from the 23 9th District. And Kyle Hall has been seated to 24 fill the vacancy created by the resignation of 25 Representative Bryan R. Holloway from the 91st</p>	<p>23</p> <p>1 ordered. With that, Senators, we are going to move 2 right into the calendar for today. 3 Senate Bill 2, the clerk will read. 4 CLERK: Senate Bill 2, enact to realign 5 the Congressional districts as recommended by the 6 Joint Select Committee on Congressional 7 Redistricting to comply with the Court order in 8 Harris versus McCrory. 9 LT. GOV. FOREST: Senator Rucho is 10 recognized to explain the bill. 11 SEN. RUCHO: Thank you, Mr. President and 12 members of the Senate. 13 The Senate Bill 2, second edition, 2016 14 contingent Congressional plan, corrected, is before 15 the body for adoption. 16 We have had an extensive debate in the 17 redistricting. I believe 40 members of the Senate 18 had a chance to participate, listen, in some manner 19 to understanding exactly what is going on. 20 This contingent Congressional plan is 21 coming before this body because after -- let's just 22 say, after the Justice Department approved the 23 maps, after a three-judge panel approved them as 24 being fair, legal, and constitutional, after the 25 North Carolina Supreme Court, on three occasions</p>

1 approved them as being fair, legal, and 2 constitutional, the three-judge panel in Greensboro 3 from the Middle District found that there were 4 problems, at least in their opinion, regarding 5 those maps dealing with constitutionality of CD-1 6 and CD-12. 7 We may not agree with their opinion, but 8 we are complying with what the Court asked us to 9 do. And each of you received information today, 10 and also what's on your desk, dealing with the 11 criteria that was established by the Joint House 12 and Senate Committee on Redistricting. 13 You have the list of all of the criteria 14 that was used, and that actually represents what we 15 felt was the best way for us to draw a map that 16 would achieve what the Court was concerned about. 17 The map before you has 13 divided 18 counties. And if you remember correctly during the 19 discussion, that is the lowest in recent history, 20 in going back almost 30 years, as far as dividing 21 counties, because we felt the county was really 22 that core body that needed to be preserved whenever 23 possible except maybe when you have to balance the 24 population as is required by federal law. And that 25 was achieved, and that, again, is one of the	26	1 established have been met in this map, again, 2 trying to be sure that the best map can be put 3 forward. 4 Today before you is what we're here to 5 do, determine whether you believe or we believe or 6 whatever, but this map is something that will move 7 forward in the redistricting plan so that an 8 election can take place on March the 15th, which is 9 something that we all hope can be done. 10 And, Mr. President, under that 11 circumstance, I will stop here and respond to 12 questions that I might be able to answer. I would 13 see if Mr. Woodcox would be -- would be in the room 14 to join me in case there are some technical 15 questions that I might not be able to address 16 directly. 17 LT. GOV. FOREST: Thank you, Senator. 18 And just as a reminder, kind of a housekeeping note 19 before we move forward, that related to amendments, 20 I'm not going to read the rule, but 36.2, if 21 everybody will just go back and refer to 36.2 again 22 as to the type of amendments that will be allowed 23 based on the rules that were adopted this morning 24 for this process. And we will -- we will adhere to 25 that strictly today. So that's just a -- a	28
1 criteria that we had in doing so. 2 It also has the least amount of split 3 VTDs going back to the point where VTDs became part 4 of the -- of the determination when maps are drawn. 5 It was -- it was precincts back a number of years 6 ago. And now the VTDs are the way -- are the way 7 they are -- they're being registered. 8 The -- the map before you is -- I'm just 9 trying to find a couple things here, if I may. The 10 map before you maintains the 13 districts. And you 11 can see they are, again, very compact. The 12th 12 District, which had been criticized for many, many 13 years, was condensed in Mecklenburg County so that 14 the issue of -- and all of the ridicule that we 15 received from -- from that district that we 16 inherited over many, many years has been corrected 17 in this map. 18 The Court decided that the 19 unconstitutionality issue of those two districts is 20 because race -- they considered race being 21 predominately used. We disagreed with that, and 22 yet we're still complying with the Court because 23 that's the authority that we're -- we're working 24 with. 25 The -- all the other criteria that was	27	1 housekeeping measure. Thank you, Senator Rucho. 2 Do we have any discussion or debate? 3 Senator Bryant, for what purpose do you 4 rise? 5 SEN. BRYANT: I have a question for 6 Senator Rucho. 7 LT. GOV. FOREST: Senator Rucho, do you 8 yield for a question? 9 SEN. RUCHO: Yes, sir. 10 SEN. BRYANT: Senator Rucho, in some 11 areas, you know, as with any redistricting plan, in 12 some people's minds you have winners and losers 13 because of people who get moved and people who get 14 included and all of that. So in my area, there is 15 a lot of concern about transparency as it relates 16 to the criteria applied and being -- and -- and 17 trusting that. 18 So with that in mind, I have a question, 19 and that -- that question is, was the -- was the 20 consultant you all used previously, Thomas 21 Hofeller, was he involved in any way with this -- 22 these maps, and when and where were they drawn, 23 initially drawn, and were any public funds involved 24 in the process of this -- of the initial drawing of 25 these maps? So -- so sort of a three-part	29

1 question. 2 SEN. RUCHO: Which one -- can we do one 3 question at a time, if you -- 4 LT. GOV. FOREST: Senator -- yeah, 5 Senator Bryant, why don't you start with one, and 6 we'll just keep -- 7 SEN. BRYANT: Okay. 8 LT. GOV. FOREST: -- kind of work our way 9 through them here, so -- 10 SEN. BRYANT: First question -- excuse 11 me. 12 LT. GOV. FOREST: Senator -- sorry. Go 13 ahead. You have the floor. 14 SEN. BRYANT: First question is was Mr. 15 Thomas Hofeller -- I think I'm pronouncing it 16 correctly -- who was used, I think, previously, 17 involved in any way with these new maps? That's 18 the first question. 19 SEN. RUCHO: Mr. President, may I get 20 some -- ask a couple of questions for 21 clarification. if I may? 22 LT. GOV. FOREST: Senator, go -- Senator 23 Bryant, will you yield for a question for Senator 24 Rucho so he can clarify your question? 25 SEN. RUCHO: So I can get some clarity	30	1 advise, are they from Washington or North Carolina, 2 and did they get funded by the unions or George 3 Soros or any of that other kind of activity that 4 may have come from those -- 5 SEN. BRYANT: I do not know the answer to 6 that question. I'm -- I can't answer that for you. 7 SEN. RUCHO: All right. And -- 8 LT. GOV. FOREST: Senator -- Senator 9 Rucho, do you want to ask another question? 10 SEN. RUCHO: Follow-up -- follow-up -- 11 LT. GOV. FOREST: Senator Bryant, do you 12 yield for a follow-up? 13 SEN. BRYANT: I will yield for a follow- 14 up as long as I get all mine answered, too. I'm 15 willing to go along -- 16 LT. GOV. FOREST: We will get there, 17 Senator. 18 SEN. BRYANT: Okay. Thank you. 19 SEN. RUCHO: And again, given the 20 opportunity, as we all were, in a very short time 21 frame given by us and the Court, you know, when 22 they -- you get 14 days, and the first day you get 23 notice is a Friday night at 6:00, and then you 24 don't do Saturday and Sunday, so -- 25 SEN. BRYANT: Yeah.	32
1 before I answer my question. 2 SEN. BRYANT: Yes. Yes, sir. 3 SEN. RUCHO: Okay. Just a -- a -- a few 4 questions, if I may. Representative Bryant -- 5 excuse me. I've been talking with too many House 6 members in the last -- 7 SEN. BRYANT: Once a representative, 8 always a representative. 9 SEN. RUCHO: Yes. Yes, ma'am. I 10 understand that. Sorry. 11 You know, in -- in drawing -- and you 12 asking questions of me in this -- in drawing maps, 13 may I ask, did you and the minority party have 14 people working on your behalf in drawing any maps? 15 SEN. BRYANT: No. 16 SEN. RUCHO: Not at all. 17 SEN. BRYANT: We had people working on 18 our behalf advising us about what could possibly be 19 done. 20 SEN. RUCHO: Follow-up? 21 LT. GOV. FOREST: Follow-up? Senator 22 Bryant, do you yield for follow-up from Senator 23 Rucho? 24 SEN. BRYANT: Yes. 25 SEN. RUCHO: Did the people that you had	31	1 SEN. RUCHO: -- within the time frame as 2 we did, did the minority party go out and have any 3 effort in having maps drawn and have them submitted 4 in equal times, especially since there was revenues 5 to be able to pay for that? 6 SEN. BRYANT: Well, I'm not able to speak 7 for the -- I'm not the leader, so I -- I didn't 8 have -- I'm not privy to all of what was done. I 9 only know the part that I was involved in, which 10 was just the discussion of what might be possible, 11 the time that it would take, the complications 12 involved for the payoff of -- of getting it done. 13 And it seemed a difficult task, from what I could 14 determine, but the ultimate decision making about 15 all of that, I wasn't privy to the -- you know, 16 final -- 17 SEN. RUCHO: And so Senator Blue or -- 18 LT. GOV. FOREST: Senator Rucho -- 19 SEN. RUCHO: I'm sorry. 20 LT. GOV. FOREST: Senator Bryant, do you 21 yield for a follow-up? 22 SEN. BRYANT: Yes. 23 SEN. RUCHO: Senator Blue or Senator 24 McKissick and/or some of the House members, then, 25 were probably more privileged to know --	33

<p>1 SEN. BRYANT: Yes.</p> <p>2 SEN. RUCHO: -- all of the information as</p> <p>3 to they -- they went out searching consultants and</p> <p>4 getting information like that. Would they be</p> <p>5 better answering the questions as to who funded</p> <p>6 this --</p> <p>7 SEN. BRYANT: Senator --</p> <p>8 SEN. RUCHO: -- Soros or the Unions?</p> <p>9 SEN. BRYANT: Senator -- yes. Senator</p> <p>10 Blue would know more about that than I would.</p> <p>11 SEN. RUCHO: All right. Thank you.</p> <p>12 SEN. BRYANT: Okay.</p> <p>13 SEN. RUCHO: I'll answer your question.</p> <p>14 SEN. BRYANT: Thank you. Do you want me</p> <p>15 to start over.</p> <p>16 SEN. RUCHO: Mr. President?</p> <p>17 LT. GOV. FOREST: Senator Rucho?</p> <p>18 SEN. RUCHO: At some point I would love</p> <p>19 to ask those questions to Senator Blue and Senator</p> <p>20 McKissick. But in answering the question, we, too,</p> <p>21 went ahead and consulted with Dr. Hofeller --</p> <p>22 SEN. BRYANT: Uh-huh.</p> <p>23 SEN. RUCHO: -- to give us the</p> <p>24 opportunity as to what time frame he would do the</p> <p>25 work in, and also, you know, in the short period of</p>	<p>34</p> <p>1 LT. GOV. FOREST: Senator Rucho, do you</p> <p>2 yield for another question. Senator Rucho, do you</p> <p>3 yield?</p> <p>4 SEN. RUCHO: Yes, I do.</p> <p>5 LT. GOV. FOREST: Okay. Senator.</p> <p>6 SEN. BRYANT: So when and where were the</p> <p>7 maps initially drawn, and were public funds</p> <p>8 involved in that process?</p> <p>9 SEN. RUCHO: My understanding of it is</p> <p>10 that when we consulted with Dr. Hofeller, and of</p> <p>11 course, consulted with our attorneys to make sure</p> <p>12 that we have the best answer to be able to comply</p> <p>13 with the Court, since not like you, an accomplished</p> <p>14 lawyer, I'm just merely a dentist, and the -- you</p> <p>15 know, we -- we did talk with the experts, and we</p> <p>16 were able to find a plan to do it.</p> <p>17 And in doing so, that's how we actually</p> <p>18 got the criteria established, which is why and how</p> <p>19 Dr. Hofeller was able to draw maps that are what we</p> <p>20 have before us.</p> <p>21 SEN. BRYANT: One more follow-up.</p> <p>22 LT. GOV. FOREST: Senator Rucho, do you</p> <p>23 yield?</p> <p>24 SEN. RUCHO: Yes, I so.</p> <p>25 SEN. BRYANT: So at -- at what point, or</p>
<p>35</p> <p>1 time, how were we going to accomplish this task</p> <p>2 since the Court really gave us 11 days to get this</p> <p>3 done.</p> <p>4 SEN. BRYANT: Uh-huh. Uh-huh.</p> <p>5 SEN. RUCHO: And we also tried to be sure</p> <p>6 that it was done in a very transparent manner, as</p> <p>7 you asked. And actually, when you had requested</p> <p>8 that we get into Halifax County, I think we were</p> <p>9 able to achieve that, thanks to your good work.</p> <p>10 SEN. BRYANT: Uh-huh.</p> <p>11 SEN. RUCHO: And we had a public hearing</p> <p>12 on Monday, both in Raleigh and six counties or six</p> <p>13 locations outside. So it was a huge transparent</p> <p>14 effort. I -- I wish you were there to spend seven</p> <p>15 hours with us so we could really have enjoyed all</p> <p>16 that friendship time together.</p> <p>17 But under the circumstances, yes, Dr.</p> <p>18 Hofeller was consulted, and at one point, was --</p> <p>19 there was an agreement to produce a map that we can</p> <p>20 be able to get the Court -- so we meet our</p> <p>21 obligation to the Court.</p> <p>22 SEN. BRYANT: Okay. And so when and</p> <p>23 where --</p> <p>24 LT. GOV. FOREST: Senator --</p> <p>25 SEN. BRYANT: Follow-up?</p>	<p>35</p> <p>1 when were the maps transferred to our legislative</p> <p>2 system here?</p> <p>3 SEN. RUCHO: When the -- when the -- when</p> <p>4 the -- let me just ask a question. Hold a second.</p> <p>5 We just asked Dr. Hofeller to follow the</p> <p>6 criteria in trying to meet the requirements.</p> <p>7 And -- and I will ask Senator, you know, with all</p> <p>8 sincerity, Senator Bryant, this map that's before</p> <p>9 you is what we consider an answer to what the Court</p> <p>10 asked us to do. And I urge you, members on the</p> <p>11 back row, members of the majority party, to look at</p> <p>12 this map and base it on its merits. And the merits</p> <p>13 that you have before you are why you have a map</p> <p>14 that looks the best.</p> <p>15 And if you remember being in the room</p> <p>16 over there, they had from 1982 forward. All of</p> <p>17 those maps were addressing all of the different</p> <p>18 iterations over the years, the 12th District, the</p> <p>19 1st District, and all the others.</p> <p>20 So I would just say to you, in -- in</p> <p>21 concluding my answer, that it's time for you and</p> <p>22 the other members to just look at the merit of this</p> <p>23 map. And the time for questioning on these issues,</p> <p>24 as you well know, as Senator Blue and Senator</p> <p>25 McKissick, we may have another five years as we</p>

1 take this into Court or y'all take this into Court, 2 giving the chance so that there'll be plenty of 3 opportunity to do depositions and -- and -- and 4 witnesses in front of Court, and answering all of 5 these questions that you're addressing. 6 So the real issue is, let's go ahead and 7 focus on this map, and decide if this is the map we 8 want to go ahead to meet the obligation of the 9 Court, and I think that probably finishes my 10 answers. Thank you. 11 SEN. BRYANT: Mr. President, I just need 12 a follow-up if I can because I didn't get an answer 13 to my last question. 14 LT. GOV. FOREST: Senator Ruch, do you 15 yield? 16 SEN. RUCHO: I think that's -- no, sir. 17 LT. GOV. FOREST: Senator Ruch does not 18 yield, Senator Bryant. Do -- 19 SEN. BRYANT: Could I -- 20 LT. GOV. FOREST: Would you like to speak 21 to the bill, Senator Bryant? 22 SEN. BRYANT: Well, I just want to say -- 23 I guess I'll -- I'll make this -- these remarks. 24 It's concerning to me, since I can't get 25 an answer to the question about when the data was	38	1 potential Congressional District map. Would that 2 not be correct? 3 SEN. RUCHO: Senator McKissick, as I 4 discussed with Senator Bryant, it's very simple. 5 The criteria that Representative Lewis and I gave 6 to our map producer is the ones that they were told 7 to use, and there is nothing in there that included 8 race or -- or party affiliation or anything other 9 than what's on the criteria. 10 And you were at the -- at the committee 11 meeting on the Joint Committee. We've discussed 12 it. You hammered it. A lot of questions. You got 13 your answers. You actually requested beyond what 14 we wanted because we felt race should not have been 15 part of this based on the decision by the Court. 16 But you wanted the information on race and the -- 17 the racial demographics and the like. 18 And that should -- you know, we actually 19 worked with the staff to make sure you got 20 everything you wanted. Not much else to say about 21 that. 22 SEN. MCKISSICK: Quick follow-up, Mr. 23 President, if I could. 24 LT. GOV. FOREST: Senator Ruch, do you 25 yield?	40
1 imported into our computers and get a sense of that 2 process, then who's accountable for the criteria 3 and what loopholes there might have been with the 4 criteria being honored still is an issue, as he 5 would like us to just accept what's going on and 6 make the best of it. 7 I hear him. But -- but our constituents' 8 rights weigh in the balance. So it's a bigger, a 9 much bigger issue than that. And so I think it's 10 still a question about how -- how much we can trust 11 the honoring of this criteria given we -- that we 12 don't know more information about this process. So 13 thank you. 14 LT. GOV. FOREST: Any further discussion 15 or debate? Senator McKissick, what purpose do you 16 rise? 17 SEN. MCKISSICK: See if Senator Ruch 18 will yield for a question. 19 LT. GOV. FOREST: Senator Ruch, do you 20 yield? 21 SEN. RUCHO: Yes, sir, Senator McKissick. 22 SEN. MCKISSICK: Senator Ruch, do you -- 23 I assume your consultant had a database that 24 covered all of the fields that would have been 25 covered back in 2011 for evaluating a new,	39	1 SEN. RUCHO: Yes. 2 SEN. MCKISSICK: Do you know if before 3 the adoption of the criteria, if your consultant 4 had already begun making maps without knowing that 5 those criteria would be adopted? 6 SEN. RUCHO: Well, to say that -- I think 7 it's simple to say that, you know, there is always 8 criteria when you establish that. You know, I 9 mean, it's like a -- let me just say to you, it's 10 like any bill in the Legislature. When you 11 submitted a bill, you already have it planned out 12 where you have privilege, you know, privacy and the 13 like, and you're thinking about what you want to 14 put to the bill. 15 What we thought -- we think about what we 16 would like to see in there, the same manner as you 17 do. And in doing so, you know, you go ahead and 18 you say, you know, "We want it to be drawn with 19 whole counties," which we actually got only -- 87 20 whole counties, which was the best it's ever been. 21 And we didn't want to cut any -- divide any VTDs, 22 or as few as possible, so that we can at least do 23 it on -- based on trying to maintain the zero 24 deviation. And you know, the basic criteria that 25 would be there and that you would discuss.	41

<p style="text-align: right;">42</p> <p>1 And I'm sure -- and matter of fact, it 2 may be a great time for me to ask you some 3 questions about who your map drawers were and who 4 funded it and the like, too. So -- but in essence, 5 we did -- we had a discussion with him, and make 6 sure that he fully understand what his limitations 7 were. And in doing so, you know as well as I do, 8 listing those criteria, that's what he was told to 9 do and that's what I'm sure he did. 10 SEN. MCKISSICK: So -- follow-up, Mr. 11 President? 12 SEN. RUCHO: Senator Rullo, do you yield? 13 SEN. RUCHO: Yes, sir. 14 SEN. MCKISSICK: Very brief follow-up, 15 Senator Rullo. So it's possible that before those 16 criteria were adopted, if he had the traditional 17 categories that were available under the 2011 stat 18 pack that might have included race or party 19 affiliations and a number of other parameters that 20 they -- it's a possibility that he began drawing 21 early maps, taking into consideration those factors 22 before the criteria were adopted, isn't it? 23 SEN. APODACA: Mr. President, Senator 24 Apodaca, what purpose do you rise? 25 SEN. APODACA: Inquiry of the Chair,</p>	<p style="text-align: right;">44</p> <p>1 your statement, and -- 2 LT. GOV. FOREST: Senator McKissick, 3 would you like to speak to the bill? 4 SEN. MCKISSICK: Yes. 5 LT. GOV. FOREST: Senator McKissick, you 6 have the floor. 7 SEN. MCKISSICK: The -- the thing that 8 gives me some concern, and that is the extent to 9 which there are outside consultants being involved 10 in drawing maps and -- and while I understand that 11 these criteria were indeed put before the Joint 12 Committee of the House and the Senate members 13 dealing with these particular reconsideration and 14 drawing of the Congressional district maps, that 15 perhaps a consultant wasn't completely bound by the 16 criteria that were subsequently established. 17 And -- and that, in my mind, opens up the 18 potential for race, as well as party affiliations 19 and other parameters to have been considered from 20 the maps being drawn, even though by the time they 21 were imported into the database, the State system, 22 to provide us with the map here today, it -- it 23 would have been potentially sanitized, so to speak. 24 Now, why do I ask these questions? For a 25 couple of reasons. If you go back to the Harris</p>
<p style="text-align: right;">43</p> <p>1 please. 2 LT. GOV. FOREST: Senator Apodaca. 3 SEN. APODACA: Mr. President, are we 4 talking about this map, or are we talking about how 5 we draw maps, or what imaginary maps may have been 6 done, or who may have done what, when, or where, or 7 are we voting on this map today as presented? 8 LT. GOV. FOREST: Thank you, Senator. 9 I -- I would recommend that we keep our focus on 10 the map that we're talking about today, 11 specifically on that bill. The question, we can 12 follow-up -- go ahead and finish the question. 13 Senator Rullo, if you'd like to answer it, feel 14 free. 15 SEN. RUCHO: I'm not sure how to say it 16 any clearer. The answer was simple. We -- you 17 know, the -- the -- the criteria that was there was 18 what was given to the -- to the map drawer. They 19 were told that "This is all you live with and this 20 is all you work with in drawing this map." What 21 part of that am I not understanding? Or maybe 22 you're not understanding it. The criteria was 23 established, and that is the criteria that was 24 followed. 25 SEN. MCKISSICK: Okay. I -- I understand</p>	<p style="text-align: right;">45</p> <p>1 versus McCrory case, the thing that the Court 2 emphasized specifically was that they were 3 extremely concerned about the packing and stacking 4 of District 1 and District 12. And when I say 5 "packing and stacking," it's the over-concentration 6 of African American voters into those particular 7 districts. 8 And the Court was concerned about it 9 because it was unconstitutional. It was 10 unconstitutional because these were majority 11 minority districts. Neither of these districts had 12 been majority minority districts in the past. 13 These districts had been allowed, in the past, to 14 elect candidates of choice without having to be 15 majority minority districts. 16 And that's what the Voting Rights Act 17 requires. And it still requires that. It still 18 requires that. While there is certainly questions 19 about the applicability of Section 5 at this time, 20 Section 2 of that Voting Rights Act still remains 21 standing law. And you're required to, in looking 22 at the creation of these districts, to think about 23 how you can enable minorities to elect a candidate 24 of choice. If race is not considered as a 25 factor -- and I'm being told it was not considered</p>

<p style="text-align: center;">46</p> <p>1 as a factor in drawing of these districts -- then 2 you have the potential to dilute the political 3 strength of that minority. 4 The thing the Court questioned 5 specifically was that being a predominate 6 consideration. A predominate consideration. They 7 never said race could not be considered. That 8 would be a complete misreading of that Court case. 9 And what we've gone is from one occasion 10 using it as a predominate consideration in creating 11 majority minority districts to just the opposite, 12 just the reverse, without understanding the Voting 13 Rights Act and what the Court actually said. They 14 said no packing, no stacking, no overpopulating 15 these districts with minorities. 16 And if you go back to the history of 17 these districts, and you looked at the way they 18 were formed and you looked at the way they were 19 drawn, they didn't have to be majority minority 20 districts. 21 SEN. RUCHO: Mr. President? 22 LT. GOV. FOREST: Senator Rucho, for what 23 purpose to you rise? 24 SEN. RUCHO: Inquiry of the Chair. Are 25 we talking about this map or are we talking about</p>	<p style="text-align: center;">48</p> <p>1 criteria that was adopted, this idea of partisan 2 advantage. 3 Now, certainly the party in majority has 4 a right to exercise some reasonable degree of 5 discretion in drawing these districts. But I think 6 the articulation in the criteria that were adopted, 7 that says the partisan makeup the Congressional 8 delegation under the plan is ten Republicans and 9 three Democrats, the Committee shall make 10 reasonable efforts to construct districts in the 11 2016 contingent Congressional plan to maintain this 12 makeup is partisan gerrymandering at its worst. 13 What voters in this state want are 14 competitive districts where regardless if one is a 15 Democrat or a Republican or unaffiliated, they have 16 equal chance to compete on the merits, not when 17 political gerrymandering is used to give an unfair 18 balance, an advantage to one party over the other. 19 And particularly if we look at the 20 traditional history of voting right here in North 21 Carolina. If we go back to 2012, total of the 22 votes of Democrats running for Congress versus the 23 votes of Republicans, what we find is that 24 Democrats and those Democratic candidates running 25 for Congress got vastly more votes than</p>
<p style="text-align: center;">47</p> <p>1 maps of the past and criteria that was established 2 to count those in? I mean, this map is clearly 3 delineated as to what was followed with the 4 criteria. So I'm not sure I understand why -- 5 LT. GOV. FOREST: Thank you, Senator 6 Rucho. Senator McKissick, I think your comments 7 are -- are generally germane. But if you will, 8 keep them to this map specifically. When you're 9 making comments, if you will, direct your comments 10 to the map that's before us today in -- in Senate 11 Bill 2. Thank you. 12 SEN. MCKISSICK: And -- and as you 13 indicated, Mr. President, my comments are germane. 14 They're germane because they relate specifically to 15 the map before us, and whether it is compliant with 16 the Voting Rights Acts today as it now stands; if 17 it is compliant with the Court's decision. 18 The Court never stated in its position 19 and in its decision that you should not consider 20 race. But yet it's been ignored as a factor in 21 drawing up these districts. So we've gone from one 22 extreme to the absolute other in violation of the 23 Voting Rights Act. 24 More importantly, one of the things that 25 gives me one concern is that we now have among the</p>	<p style="text-align: center;">49</p> <p>1 Republicans, but yet they ended up with three seats 2 and Republicans got ten. 3 And what do we know? Back before all 4 this redistricting occurred, we had seven Democrats 5 that were part of our Congressional delegation and 6 six Republicans. 7 LT. GOV. FOREST: All right, Senator -- 8 Senator McKissick, now we're not germane any 9 longer. So let's keep your comments, please, 10 focused on the bill that's in front of us. Thank 11 you. 12 SEN. MCKISSICK: Well, I think the bill 13 in front of us and the map in front of us gives me 14 serious reasons for concern because I don't believe 15 it's compliant with the Court's decision by not 16 considering race at all. And I don't believe it's 17 consistent with the Voting Rights Act. 18 More importantly, when I look at the map 19 and I think about the impact upon the 12th 20 Congressional District, one thing that I do know is 21 that we didn't consider as part of our 22 considerations and criteria whether communities of 23 interest would be considered. 24 Communities of interest is a standard 25 that's been adopted by the United States Supreme</p>

1 Court. By failing to consider that and include it 2 as part of our criteria, it perhaps eliminated the 3 capacity to create districts that would have 4 combined cities and communities in a way that they 5 could have been best represented. That gives me 6 deep concern. I look at Congresswoman Alma Adams, 7 and -- 8 SEN. RUCHO: Mr. President? 9 SEN. MCKISSICK: -- and the district that 10 she has -- 11 LT. GOV. FOREST: Senator Rullo, for what 12 purpose do you rise? 13 SEN. RUCHO: Would Senator McKissick 14 yield to a question? 15 LT. GOV. FOREST: Senator McKissick, do 16 you yield? 17 SEN. MCKISSICK: Yes, I will. 18 SEN. RUCHO: Senator McKissick -- and I 19 know I've read the opinion two or three times. Of 20 course, I'm not being an attorney like yourself. 21 But where is it in that opinion did it ever say 22 that you must use race as a criteria? 23 SEN. MCKISSICK: What it says in the -- 24 SEN. RUCHO: No, no. My question, 25 where -- where is it in the opinion that it says	50	1 did we not? 2 SEN. MCKISSICK: You never conducted a 3 racially polarized voting study. There was one 4 conducted, from what I understand, back in 2011. 5 It has not been adequately reevaluated nor 6 considered. 7 One thing that would have been 8 appropriate to have done was to actually conducted 9 racial lines polarized voting studies to have seen 10 what parts of the state where it was a significant 11 factor and what parts of the state where it may not 12 have been. 13 What it basically would have indicated to 14 you, that perhaps in intensely urban areas of this 15 state, there is racial coalition building between 16 blacks, whites, and other groups to come forth with 17 a cohesive political bloc to elect the candidate of 18 choice. 19 Without a racially polarized voting study 20 done, you might not be able to identify those parts 21 of the state within the Congressional districts 22 which have been crafted that would have 23 specifically identified where you needed to take 24 race into consideration. 25 SEN. RUCHO: Follow-up, please.	52
1 you must use race? 2 SEN. MCKISSICK: I never stated that. I 3 never stated -- I said that basically what the 4 opinion required was the redrawing of these maps 5 for these Congressional districts because African 6 Americans voters have been packed in the District 1 7 and in the Districts 12. And that by packing those 8 African American voters into those districts, it 9 was unconstitutional. 10 And that the Voting Rights Act required, 11 one, in drawing maps, to consider how you could 12 draft maps to allow minorities to elect candidates 13 of choice regardless of the race that that 14 candidate may be. 15 SEN. RUCHO: Follow-up? 16 LT. GOV. FOREST: Senator McKissick, do 17 you yield for follow-up? 18 SEN. MCKISSICK: Sure. 19 SEN. RUCHO: Senator McKissick, in 20 abiding by the Voting Rights Act, which I believe 21 we did in this map -- this is what we're talking 22 about -- the Court was clear in saying that in 23 their opinion, racial polarized voting did not 24 exist. And in that fact, we complied with the 25 Voting Rights Act, just as we did on this map here,	51	1 SEN. MCKISSICK: And you might have been 2 able -- please allow me to complete my explanation 3 before interrupting me -- to have identified the 4 specific areas where, yes, you needed to go in and 5 create sufficient voting blocs of minority voters 6 to allow them to elect candidates of choice. 7 SEN. RUCHO: Follow-up? 8 LT. GOV. FOREST: Senator McKissick, do 9 you yield for follow-up? 10 SEN. MCKISSICK: Yes. 11 SEN. RUCHO: Senator McKissick, in 12 reading the opinion and, you know, talking about 13 the Gingles case and all that stuff, is it not 14 accurate that the Court said that there was no 15 evidence of -- of racially polarized voting? Did 16 they not clearly state that in the opinion? 17 SEN. MCKISSICK: That is not what I saw 18 in that opinion. 19 SEN. RUCHO: Then you might need to read 20 it again. 21 SEN. MCKISSICK: And -- and what -- 22 LT. GOV. FOREST: Senator -- Senator 23 McKissick, you have the floor to finish your 24 comment if you'd like. 25 SEN. MCKISSICK: Sure. And I guess it's	53

<p>1 a good point to direct this all to we all know 2 today, within the State of North Carolina, there's 3 portions of this state where racial relations are 4 excellent. There are multi-racial coalitions that 5 come together to help elect candidates of choice, 6 regardless of race. 7 But unfortunately, there are still 8 portions of our state today where we don't live in 9 a colorblind society. Where race is a predominant 10 factor in people deciding who they select as a 11 candidate and who they vote for. 12 We need to be cognizant of that fact. We 13 need to recognize that fact. And in fact, what the 14 Voting Rights Act did was identify 40 counties in 15 this state where they had historical voting 16 practices that were discriminatory with African 17 American voters. That's why they were subject to 18 Section 5. 19 While Section 5 today has to be revisited 20 by Congress, and Congress is at a stalemate, 21 Section 2 continues to exist in bold strong force 22 teeth and validity. 23 We need to understand that if we want to 24 give voters of this state a choice, first, we need 25 to have voting districts established, Congressional</p>	54	<p>1 purpose do you rise? 2 SEN. HISE: See if Senator McKissick will 3 yield for a question. 4 LT. GOV. FOREST: Senator McKissick, do 5 you yield? 6 SEN. MCKISSICK: Absolutely. 7 SEN. HISE: Senator McKissick, I'm a 8 little confused on two directions here. I think 9 the Court is clearly -- this Court has ruled that a 10 majority minority district, 50 percent plus one, is 11 a predominant use of race. You're saying that we 12 still have to create districts where minorities can 13 choose a candidate -- can elect a candidate of 14 their choosing. 15 What is the percentage, in your mind, 16 that satisfies both those criteria? 17 SEN. MCKISSICK: There's not a magical 18 number, Senator Hise. That's why the racially 19 polarized voting studies are so important, an 20 integral part of these map drawing processes that 21 should have been utilized significantly back in 22 2011 because what's right in Durham or Chapel Hill 23 may not be the same number in some other community 24 in our state. 25 It's not -- it's not a bright-line test.</p>	56
<p>1 districts established where we can have competitive 2 races between Republicans and Democrats. 3 And we also need to take race into a 4 factor in drawing these districts. It should 5 not -- it should never be the predominant factor 6 and the predominant thing that should control what 7 we do. But we need to understand that within local 8 counties and communities, and within these 9 districts that are being crafted, that the Voting 10 Rights Act requires us to be cognizant of those 11 factors and to try to give those voters within 12 those districts a potential to elect a candidate of 13 choice. 14 Unfortunately, the maps we have here 15 today may potentially eliminate some of the 16 problems identified by the Court because they are 17 no longer majority minority districts. But they 18 open themselves up to a significant challenge based 19 upon the fact that this articulated criteria for 20 giving oneselfs partisan advantage may be 21 completely over the top, and is likely to lead in 22 continued litigation for years to come. 23 I ask that those of you with an open 24 mind, to look at this map and to vote against it. 25 LT. GOV. FOREST: Senator Hise, what</p>	55	<p>1 It's not an exact number that one can identify. It 2 may be 45 percent one place; it may be 35 percent 3 another. But what one attempts to do is to look at 4 those historical voting trends in patterns and what 5 has been established historically in terms of 6 trying to identify what is right. 7 Is it a challenge? Absolutely. Is it 8 something that's not easy to wrap your arms around? 9 I'd be the first to acknowledge that. But I also 10 say that doesn't mean because it's a challenge, 11 that you should not try to follow the law of the 12 land. 13 SEN. HISE: Follow-up? 14 LT. GOV. FOREST: Senator McKissick, do 15 you yield for follow-up? 16 SEN. MCKISSICK: Sure. 17 SEN. HISE: So -- but given the situation 18 we're in and a Court ruling and a two-week period 19 to conduct these, do you believe there is any 20 manner other than not considering race that we do 21 not place ourselves in a position for a Court to 22 rule that race was the predominant factor in 23 drawing these districts? 24 SEN. MCKISSICK: Well, I think there were 25 other possibilities, yes. One could look at maps</p>	57

1 that had been approved through the Justice 2 Department in the past, before those district were 3 crafted as a majority minority districts, and use 4 it potentially as a benchmark, as a guidepost. 5 I'm not saying that it's a bright-line 6 test. But we know if these majority minority 7 district that went over 50 percent are too much. 8 Perhaps in the past, some of those other maps that 9 might have been drawn that would have been approved 10 by the Justice Department might show a reasonable 11 range of variability for determining what might be 12 valid. 13 LT. GOV. FOREST: Senator Apodaca. 14 SEN. APODACA: Mr. President -- 15 LT. GOV. FOREST: Senator Apodaca -- 16 SEN. APODACA: Senator Rucho yield to a 17 question, please? 18 SEN. PRES: Senator Rucho, do you yield? 19 SEN. RUCHO: Yes, sir. 20 SEN. APODACA: Senator Rucho, I know 21 we've been here quite a while, but did not the 22 Justice Department, the Obama Justice Department, 23 approve these maps? 24 SEN. RUCHO: They move -- they have 25 approved the enacted maps, that is correct.	58 1 constitutional problem, and that's of political 2 gerrymandering. 3 The Committee Chairs said that they drew 4 these maps to maximize the number of Republicans 5 elected to Congress. When asked why he supported 6 maps that would yield ten Republican Congressmen 7 and three Democratic Congressmen, Chairman Lewis 8 said it was because he couldn't draw one to produce 9 eleven Republicans. His goal was to maximize the 10 number of Republicans elected to Congress. 11 Folks, political gerrymandering is 12 unconstitutional and it's subject to Court review. 13 The case, Senator Newton, is Davis versus Bandemer. 14 That is the precedent, and it remains the precedent 15 of political gerrymandering cases. 16 Even Justice Scalia holds that political 17 gerrymandering is unconstitutional. He just 18 differs -- and that case was the Vieth case -- he 19 differs in that he says those cases, even though 20 unconstitutional, are not appropriate for Court 21 review. 22 But in that case, the Vieth case, he 23 wrote for a plurality of four. There were five 24 Justices, including Justice Kennedy, who held that 25 Davis versus Bandemer is still good law, and the
59 1 SEN. APODACA: Okay. Thank you. 2 SEN. STEIN: Mr. President? 3 SEN. PRESIDENT: Senator Stein, for what 4 purpose do you rise? 5 SEN. STEIN: Speak on the bill. 6 LT. GOV. FOREST: Senator Stein you have 7 the floor to speak to the bill. 8 SEN. STEIN: Thank you, Mr. President. 9 Members of the Senate, as we all know, last week 10 the three-judge federal panel ruled that the 2011 11 maps were unconstitutional because they diluted the 12 votes of African Americans and it impacted their 13 ability to elect candidates of their choice because 14 they mechanically put a majority of them into two 15 Congressional districts, the 1st and the 12th. 16 I agree with Senator McKissick's 17 analysis, that this effort suffers from the same 18 infirmity as the last, which is there has been no 19 analysis of racially polarized voting, so we don't 20 know, under Section 2, whether these -- these 21 districts are good or not. 22 But by having -- dealing with one 23 constitutional problem and racial gerrymandering 24 that we saw on the last map, what y'all have done 25 is squarely put this map with another	61 1 political gerrymandering cases are -- can be 2 unconstitutional and it would be appropriate for 3 the Court to determine and set a standard for what 4 is an unconstitutional political gerrymander. 5 Just two months ago, another three-judge 6 federal panel, just like the one here in North 7 Carolina, ruled that a Wisconsin plan would not 8 be -- litigation to block a Wisconsin plan could go 9 forward asserting a political gerrymander case in 10 Wisconsin. 11 And of course, one of the most prominent 12 cases upholding a political gerrymandering case 13 happened here in North Carolina. The Plaintiff was 14 the Republican Party of North Carolina, and they 15 successfully sued to change the way in which 16 Superior Court Judges were elected in our state. 17 This brazen gerrymander undermines our 18 democracy. The voters have a constitutional right 19 to have their votes mean something. Yet this map 20 wastes hundreds of thousands of votes of North 21 Carolina citizens simply because of what party they 22 are affiliated with. 23 It is a slap in the face to those voters. 24 It was drawn with the declared purpose of electing 25 ten Republican Congresspeople. That's 77 percent

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1 of our Congressional delegation. 2 SEN. RUCHO: Mr. President? 3 LT. GOV. FOREST: Senator Rucho, for what 4 purpose do you rise? 5 SEN. RUCHO: Would Senator Stein yield 6 for question? 7 LT. GOV. FOREST: Senator Stein, do you 8 yield? 9 SEN. STEIN: I will be happy to when I'm 10 finished with my remarks. 11 LT. GOV. STEIN: Senator Stein, you have 12 the floor. 13 SEN. STEIN: Thank you very much. Our 14 state is a 50/50 state by almost all measures. An 15 analysis of every United States Senate election in 16 the entire country over the last 25 years concluded 17 that North Carolina is the most politically 18 competitive state in the nation. In 2008, we were 19 the state that most narrowly went for the 20 President. In 2012, we were the state that most 21 narrowly went against the President. 22 In 2012, of all votes cast in that 23 election for Congress, 52 percent -- 51 percent, 24 excuse me, went for a Democratic candidate; 49 25 percent went for a Republican candidate.	1 that was the first election after the last round of 2 redistricting. 3 In that election, 54 percent of North 4 Carolinians cast a vote for a Republican member of 5 Congress; 46 percent voted -- voted for a Democrat. 6 You know what the split was? 54 percent of our 7 delegation was Republican and 46 percent was 8 Democratic. That is a perfect, nearly perfect 9 congruence of votes and representation. And guess 10 what's supposed to happen in a democracy? The 11 share of votes should yield the same share of 12 representation. 13 This gerrymander boils down to self -- 14 self-preservation without representation. The only 15 saving grace of this map is that it represents 16 partisan abuse of such scale that the Supreme Court 17 can use it to create a standard for determining 18 what constitutes an unconstitutional political 19 gerrymander. 20 Friends, we live in North Carolina, not 21 North Korea. Voters should choose their 22 representative, not the other way around. Because 23 this gerrymander does precisely the opposite, I 24 urge you to vote no on this map. 25 LT. GOV. FOREST: Senator Brown, for what
63	65

1 for many years, at least we finally got a map that 2 I think makes sense when you look at it. 3 If -- you got 13 counties that are 4 divided the least ever. You got 13 precincts, 5 basically, that are divided, I think the least 6 ever. 7 Senator McKissick, you -- you talked 8 about the vagueness of what Senator Hise asked you. 9 If it's not 51 percent, is it 48 percent? Is it 40 10 percent? Nobody can give you that answer. So how 11 do you draw a map on something that vague? I don't 12 think you can, because if you go from that 13 scenario, then you'll never draw a map that's good. 14 It's -- it'll be impossible because it's 15 an interpretation of what an individual thinks. 16 And I'm not sure you'll ever get every individual 17 to think that it's 51 or 49 or 45 or 40 or whatever 18 it may be. You know, we can have that debate 19 forever. You'll never decide it. It's impossible 20 to decide because of its vagueness. 21 I think with what the ruling that came 22 down from the Court that gave us guidance on trying 23 to draw this map, I think the best effort was done 24 to do that in a short period of time. And I think 25 those guidelines were as clear as maybe we could --	66 1 LT. GOV. FOREST: Senator Rucho, for what 2 purpose do you rise? 3 SEN. RUCHO: I did have a question for 4 Senator Stein, if he'll -- 5 LT. GOV. FOREST: Senator Stein, do you 6 yield for a question? 7 SEN. STEIN: Yes, sir. 8 SEN. RUCHO: Senator Stein wants you to 9 believe that political gerrymandering is illegal 10 and unconstitutional, but I think a simple 11 question -- answer to that is of the CD-12, which 12 has been in place for a number of years, actually 13 put together by our minority party, the back row. 14 In establishing CD-12, Senator Stein, and 15 going through all the litigation it did go through, 16 the Supreme Court ended up saying that CD-12 was 17 put together and allowed because it was a political 18 gerrymandering and therefore legal. 19 So how do you say that the Supreme Court 20 said that political gerrymandering is illegal and 21 unconstitutional? 22 SEN. STEIN: Because -- I think you have 23 a misunderstanding of what a political gerrymander 24 is. 25 The -- it is absolutely appropriate to
1 could determine. And I think we tried to -- to 2 abide by those guidelines to draw this map. 3 I just don't know how you can talk about 4 gerrymandered they are when -- when a Democrat 5 running for a key office would have won every 6 single district on this map. That argument makes 7 no sense, absolutely no sense to say that. 8 And you know, I just think that -- I 9 think we're sitting here arguing over something 10 that's just not true. And I -- I think most of the 11 people in this state, because most of these 12 counties are kept whole -- what, 87 whole counties 13 now that know who they're voting for -- I think 14 that's a win for the state. And I -- I think it's 15 the most ever. So that should be something we 16 should be proud of. 17 I know we all have our opinions on this 18 map, but I think this is a pretty dang good job 19 done in a short period of time. And I just think 20 the gerrymandering piece is irrelevant based on 21 facts. And these are competitive districts now. 22 And I think that's what the citizens want in this 23 state, and I think that's what you get with this -- 24 with this map. 25 SEN. RUCHO: Mr. President?	67 1 take race into account when redistricting, so long 2 as you don't make it the predominant factor. Then 3 it becomes a racial gerrymander. 4 Similarly, it is appropriate or 5 acceptable to take into account partisan 6 performance when redistricting unless you take it 7 to its full extent and it becomes a political 8 gerrymander. And at that point, it becomes 9 unconstitutional. 10 What we've heard is that these maps were 11 drawn to maximize the number of Republicans who 12 were elected, which tells us it was the predominant 13 factor in this drawing, and therefore constitutes a 14 political gerrymander. That is the difference. 15 LT. GOV. FOREST: Senator Smith-Ingram, 16 for what purpose do you rise? 17 SEN. SMITH-INGRAM: Thank you, Mr. 18 President. To see if Senator Rucho will yield to a 19 logistics question. 20 LT. GOV. FOREST: Senator Rucho, do you 21 yield for question? 22 SEN. RUCHO: Yes, ma'am. 23 SEN. SMITH-INGRAM: You're aware of the 24 sites that were selected for the public hearings. 25 And with Congressional District 1 being one of the

<p style="text-align: center;">70</p> <p>1 districts that would have been most impacted, or at 2 least the Courts saw fit to say that there are 3 questionable formation of that Congressional 4 district, why was there only one public hearing 5 site in Congressional District 1, which originally 6 represented some 24 counties, one thousand three 7 hundred and X miles long in distance, if you drive 8 around the district?</p> <p>9 SEN. RUCHO: Thank you for that question. 10 You weren't here at the time we initially had 11 redistricting where we put together, oh, I would 12 probably say seven or eight public hearings, many 13 of them coming out of District 1 and getting all 14 the information and all of the opinions of the 15 people over there. So it isn't like we neglected 16 them at all. We reached out and achieved that.</p> <p>17 On this time, we were given 14 days to 18 actually have a public hearing and to have the 19 necessary Joint Commission -- committee to be able 20 to come up with a map to meet the criteria.</p> <p>21 The Court gave us 14 days. Well, let's 22 really look at it. Three of them were the weekend, 23 so we really never had -- so we had 11 days to do 24 that. And in doing so, we reached out across the 25 state. We reached out when -- when available.</p>	<p style="text-align: center;">72</p> <p>1 storm. That was the one that we had to cancel 2 because of the weather. 3 Every effort's been made, and I have no 4 apologies for not being able to do it. We reached 5 out as best we could because the Court only gave 6 us, basically, 11 days to accomplish this task, in 7 addition to the fact that we have to get the map 8 done by no later than tomorrow. 9 SEN. SMITH-INGRAM: Follow-up? 10 LT. GOV. FOREST: Senator Rucho, do you 11 yield. 12 SEN. RUCHO: Okay. 13 SEN. SMITH-INGRAM: There were several 14 people who commented during the public hearings, 15 and we never did receive an answer, but did we ever 16 ascertain why race was one of the questions asked 17 during the sign-in of the constituents across the 18 state? 19 SEN. RUCHO: It was the same 20 questionnaire that was done on the very first time. 21 It was done then. No one asked a question then. 22 It was the same -- the staff was -- just basically 23 used the same -- there was nothing other than what 24 was done in the past. 25 SEN. SMITH-INGRAM: May I speak to the</p>
<p style="text-align: center;">71</p> <p>1 We were able to take care of -- of 2 Senator Bryan's concern, 'cause she was able to do 3 it. I know you had a concern, and you -- 4 unfortunately, the technology was not there and 5 available for that to be done. We made every 6 effort to do so. And I applaud our General 7 Assembly staff and our IT people. 8 We had six locations across the state to 9 reach out to the public, plus the fact we opened up 10 the Internet to allow for comments. And I don't 11 remember how many -- how many did we get? -- 80 12 pages of comments, plus the public hearings on all 13 coming from across the state, including CD-1. So 14 under the circumstances, we did the very best we 15 could do with the minimum time we had to achieve 16 public input. 17 We had plenty of opportunity to discuss 18 the criteria at our committee meetings. We 19 arranged the time. We discussed it again today. 20 It -- we made every effort to reach out there. And 21 you may be disappointed with it. I'm sure there 22 are people that are disappointed elsewhere in the 23 state to not have a chance, maybe in -- we tried in 24 Guilford County, which is, again, CD-12 at that 25 point. Unfortunately, they got caught in the</p>	<p style="text-align: center;">73</p> <p>1 bill, please? 2 LT. GOV. FOREST: Yeah, you have the 3 floor, Senator. 4 SEN. SMITH-INGRAM: The first major 5 concern, I -- I commend my colleague Senator Angela 6 Bryant for working feverishly to get Halifax County 7 included. And that was close to some of the 8 counties, but not the predominant number of 9 counties in Congressional District 1. 10 Senator Don Davis also attempted to 11 secure East Carolina, and I myself in Chowan. But 12 when the announcement came out on a Friday in -- 13 late on a Friday, we all scrambled to try to touch 14 base with our community college presidents, so 15 forth and so forth. 16 But I think it was just poor -- poor 17 foresight or poor planning. You only had two 18 weeks, but this has been in litigation, and we knew 19 full well that we would be faced with this. And if 20 we could have gotten those other sites -- I don't 21 see why we didn't get an additional site in 22 Congressional District 1. 23 It takes away the transparency for 24 constituents. And then for those to fight the 25 weather and fight the roads and show up only to be</p>

<p style="text-align: center;">74</p> <p>1 insulted as if race was the consideration and what 2 interest and their presence being there. I would 3 like to -- to know why race was a factor, and I 4 hope staff can get that to us.</p> <p>5 Just because we did something before 6 doesn't give us a reason to do it again. I -- I 7 can't imagine why that was a question on the sign 8 up.</p> <p>9 But speaking with the bill and the map 10 and the outcome of the map, I do have some concerns 11 on a post-analysis. Serving on the redistricting 12 committee, I heard the criteria. I know the 13 criteria that was voted on. But was there any 14 post-analysis? Or after the maps were constructed, 15 was there any going back and looking at maybe the 16 potential outcome and the effect and impact that it 17 would have on the voters across North Carolina?</p> <p>18 I had two specific questions to no one in 19 general, but as we deliberate maybe we should think 20 about that in the back of our minds.</p> <p>21 Once the maps were produced and the 22 redistricting had been done, to what extent would 23 members of the minority group have been elected to 24 public office in these particular jurisdictions 25 that we have remapped, all 13?</p>	<p style="text-align: center;">76</p> <p>1 It's been said -- it's been done since we had 2 constitutional government, Senator Stein, and you 3 all wrote the book on it. Your predecessors wrote 4 the book on it. It's called "if you win, you draw 5 the maps," and I don't believe that's ever going to 6 change.</p> <p>7 Now, the only way that you would approve 8 any map we drew -- you can go on with these 9 arguments ad infinitum -- would be for Senator 10 McKissick, Senator Blue, Senator Stein to go down 11 there and draw the maps. You ought to hire 12 yourselves out. You know everything about drawing 13 a map. You drew some real good ones, some of you 14 did, back in the day when we sat on the back row 15 and watched it.</p> <p>16 I would simply ask you, do you know any 17 legislature of any political party that's ever 18 drawn maps, district maps of any kind, State, 19 Federal, whatever, that's not used political 20 reasons for drawing a map?</p> <p>21 But we could draw -- '65 Voting Rights 22 Act, yeah, yeah, we got to have minority majority 23 districts, and then we're told you can't use race, 24 then we're told we don't know what number or what, 25 go ahead and draw some more. That's where we're</p>
<p style="text-align: center;">75</p> <p>1 And a final question to consider, which 2 is a post-analysis that should have been done by us 3 in making this decision, is the exclusion of 4 members of a minority group from -- from the 5 candidate-slating process. And I say that in 6 particular for the new Congressional District 13 as 7 mapped out. And I do have concerns about the way 8 Congressional District 12 was treated and all of 9 the districts surrounding.</p> <p>10 I think that this was a hasty process, 11 and I understand we're doing the best that we can. 12 But at the end of the day, I don't think that the 13 best that we could do is the best that we owe the 14 people of North Carolina. We should vote this map 15 down.</p> <p>16 LT. GOV. FOREST: Senator Tillman, for 17 what purpose do you rise?</p> <p>18 SEN. TILLMAN: Mr. President, I'd 19 speak -- speak briefly on the bill. You know, it's 20 amazing --</p> <p>21 LT. GOV. FOREST: Senator Tillman has the 22 floor.</p> <p>23 SEN. TILLMAN: Thank you, Mr. President. 24 It's amazing to hear Democrats talk about political 25 gerrymandering and that it's unconstitutional.</p>	<p style="text-align: center;">77</p> <p>1 caught.</p> <p>2 You're not going to like any map we draw. 3 No way we can do it. But when you go to railing 4 about the constitutional issue of political 5 mapmaking, folks, there's never been a legislature 6 that's not done that in the history of man. Never.</p> <p>7 SEN. CLARK: Mr. President?</p> <p>8 LT. GOV. FOREST: Senator Clark, for what 9 purpose do you rise?</p> <p>10 SEN. CLARK: I ask Senator Rucho to yield 11 for a question.</p> <p>12 LT. GOV. FOREST: Senator Rucho, do you 13 yield?</p> <p>14 SEN. RUCHO: Yes, sir.</p> <p>15 SEN. CLARK: Senator Rucho, we held some 16 public hearings earlier in the week. Was -- that's 17 correct, I believe?</p> <p>18 SEN. RUCHO: We had public hearings on 19 Monday. I think there were six locations plus 20 Raleigh.</p> <p>21 And to further help Senator Smith-Ingram, 22 I just remembered the fact that the question about 23 race was optional, and I know there are people in 24 Wilmington and elsewhere that said, "I choose not 25 to participate to do that," so it was no obligation</p>

1 to actually fill that out, for your information. 2 SEN. CLARK: Okay. No problem. 3 SEN. RUCHO: Go ahead. 4 SEN. CLARK: That's not my concern. I'm 5 wondering, though, so you -- 6 LT. GOV. FOREST: Senator, you -- 7 SEN. CLARK: A follow-up question? 8 LT. GOV. FOREST: Follow-up? Senator 9 Ruco, do you yield? 10 SEN. RUCHO: Yes. 11 SEN. CLARK: If -- the criteria for doing 12 the maps, were they developed prior to the public 13 hearings? 14 SEN. RUCHO: The criteria that -- that 15 were to draw the map that would be necessary to 16 meet the requirements of the Court, the three-judge 17 panel, was -- has been looked at by, of course, our 18 consultants and our attorneys that were helping us 19 make sure that we knew the proper way to answer the 20 concerns of the Court. 21 So, of course, we were looking at the 22 issues that were necessary for us to, since we were 23 only given 11 days, because we really didn't have 24 anything more than that to try to find out what 25 they wanted, because fact of the matter is, the	78	1 SEN. RUCHO: Yes. 2 SEN. CLARK: Let me narrow my question a 3 little bit more. Was the criteria -- criteria to 4 maintain political advantage provided to the 5 mapmakers prior to the public hearing? 6 SEN. RUCHO: Repeat that again. I 7 couldn't hear you. 8 SEN. CLARK: Was the criteria to maintain 9 political advantage for the Republican Party 10 provided to the mapmakers prior to the public 11 hearing? 12 SEN. RUCHO: Well, we looked at the -- at 13 the previous map, which was done following the 14 Voting Rights Act and all the other things that 15 needed to be addressed the way the Supreme Court 16 had told us to do. And that is how we did the 17 other map. This one was found unconstitutional. 18 What we were doing is saying, okay, 19 political gerrymandering is not illegal, despite 20 what Senator Stein says, and -- and CD-12 is a 21 political gerrymandering that was approved by the 22 Supreme Court. So there is nothing wrong with 23 political gerrymandering. I -- I won't accept that 24 as being a criticism. 25 SEN. CLARK: I didn't say anything was	80
1 Court said it was unconstitutional, but never told 2 you why it was really unconstitutional. He never 3 told you how -- what you needed to do to fix it. 4 And that's one of the reasons why, as 5 Senator Brown alluded to and Senator Hise, talking 6 about the fact that if 50 percent plus one is 7 illegal, is 42 or 31 or any -- there was no light 8 as to be able to say what is the number that you 9 need to achieve to try to help that out. 10 There was no time to do racial polarized 11 studies, as Senator McKissick alluded to, because 12 we had 11 days to get this done. Okay? It took us 13 six months the last time to get this done, and we 14 had 11 days to try to get this done. 15 So in reality, we needed to get advice 16 and we got advice for -- as soon as we found out 17 that there was indeed a problem with the courts and 18 they -- funny thing about it, all the courts in 19 North Carolina said they were fair, legal, and -- 20 and constitutional. And the one federal court 21 decided for whatever reason that they didn't agree 22 with what the courts in North Carolina said. 23 SEN. CLARK: Follow-up? 24 LT. GOV. FOREST: Senator Rucho, do you 25 yield?	79	1 wrong with it. I'm just asking you to tell me -- 2 SEN. RUCHO: Just letting you know. 3 SEN. CLARK: -- whether or not one of the 4 criteria provided to the mapmakers was to maintain 5 political advantage, and was that done prior to the 6 public hearing? 7 SEN. RUCHO: To answer your question -- 8 LT. GOV. FOREST: You go ahead, Senator. 9 SEN. RUCHO: To answer your question, we 10 wanted to achieve the same goals that were 11 available or that were achieved on the previous map 12 on this new map so that -- and -- and to clearly 13 achieve -- we had 13 -- excuse me, 10/3, and we 14 said 10/3 would be the appropriate way to go in 15 this one, too. 16 SEN. CLARK: I guess -- 17 LT. GOV. FOREST: Senator -- 18 SEN. CLARK: -- I should take that for a 19 yes. 20 LT. GOV. CLARK: Senator, do you want to 21 speak to the bill or do you want to ask another 22 question? 23 SEN. CLARK: Will the Senator yield for 24 another question? 25 LT. GOV. FOREST: Senator Rucho, do you	81

1 yield? 2 SEN. RUCHO: Yes. 3 SEN. CLARK: Okay. Well, you're proud of 4 the fact that a lot of folks did respond via online 5 to the -- as a part of the hearing, is that 6 correct? 7 SEN. RUCHO: I'm sorry. Say it again, 8 please. 9 SEN. CLARK: Y'all have been somewhat 10 boastful to the fact that we provided opportunity 11 for the citizens to respond to the public hearing 12 on line. 13 SEN. RUCHO: Yes, sir. 14 SEN. CLARK: Did we actually use the 15 comments that they provided to us? 16 SEN. RUCHO: Yes. 17 SEN. CLARK: Are you aware that in those 18 comments, there -- let's see, there about 381 19 comments, and about 150 of them spoke against 20 gerrymandering. So on what basis am I to believe 21 that we actually listened to our citizens when they 22 told us that political advantage for the Republican 23 Party was not one of their concerns? 24 SEN. RUCHO: Well, I think you may have 25 missed it, Senator Clark. I mean, they said that	82	1 whole counties. We have whole VTDs wherever we 2 could. We have zero population as a federal 3 requirement. We achieved everything that was 4 necessary to meet the requirements of the Court to 5 the best of our ability, and that's what we did. 6 SEN. CLARK: Thank you. 7 LT. GOV. FOREST: Senator Clark -- 8 SEN. CLARK: I'd like to speak to the 9 bill. 10 LT. GOV. FOREST: -- you'd like to speak 11 to the bill. You have the floor, Senator. 12 SEN. CLARK: Clearly there are problems 13 here, to me. It appears as though we did not 14 seriously take into consideration our citizens' 15 viewpoints. I mean, I can look at the online 16 submissions right here. I see 381 submissions, 151 17 instances in which people spoke against political 18 gerrymandering. Yet, we do it anyway. 19 We probably established the criteria 20 before we even asked them to speak, which would be 21 bad enough. Maybe even worse if we establish such 22 criteria after they had spoken. 23 A lot of the comments that have just been 24 made were really not the point I was trying to 25 drive home, because even during the public hearing,	84
1 we want to keep counties whole. We put the map 2 that has never been -- never been better as far as 3 whole counties. 4 They said that they don't want to have 5 VTDs split so it was erratic and have less than 6 what would be respectable. And this is what I 7 would consider respectable mapping. Okay? 8 And you know, it also, you know, achieved 9 the fact that we wanted to -- the 13 -- you know, 10 we did the 13 -- excuse me, the 10/3 because that 11 was what the previous map said. So those are the 12 reasons why. 13 I mean, those are some of the examples 14 that we did -- oh, I know one other thing. They 15 didn't like the shape of the 12th district and we 16 fixed it. 17 And so we listened to the -- to the 18 people out there. And my understanding, having 19 read them and listening for six hours, as you did, 20 that debate -- in that -- that hearing, you know, 21 many of the people spoke on both sides of the 22 issue. Some of them were happy with the old map. 23 Some of them weren't happy. 24 They -- they were critical of the 12th 25 District. We fixed the 12th District. We have	83	1 I asked the question that I still did not -- that I 2 did not get an answer to then, and I'm not sure 3 anyone can go out and provide the answer to me now. 4 And that is of why should I support these 5 maps that contain a 10/3 partisan advantage, and 6 there were -- this advantage was achieved based 7 upon maps that were deemed to be unconstitutional? 8 It makes no sense to me. It sounds like 9 insanity. I cannot not do it and I will not do it. 10 LT. GOV. FOREST: Senator Apodaca, for 11 what purpose to you rise? 12 SEN. APODACA: See if Senator Rucho will 13 yield. 14 LT. GOV. FOREST: Senator Rucho, do you 15 yield for a question? 16 SEN. RUCHO: Yes, sir, Senator Apodaca? 17 SEN. APODACA: Senator Rucho, isn't it a 18 fact that this map was actually completed, drawn, 19 and voted on around 2:00 today? 20 SEN. RUCHO: Yes. 21 SEN. APODACA: Okay. Thank you. 22 LT. GOV. FOREST: Senator Davis, for what 23 purpose do you rise? 24 SEN. DAVIS: Mr. President, I would like 25 to see if Senator McKissick would yield for a	85

1 question. 2 LT. GOV. FOREST: Senator McKissick, do 3 you yield? 4 SEN. MCKISSICK: Sure. Absolutely. 5 SEN. DAVIS: Thanks, Senator. I -- I was 6 contemplating who to ask the question 'cause I 7 typically listen, you know, but, you know, I've 8 heard a -- a couple of times it being shared that 9 we we're quite sure, upon looking at the opinion, 10 that there was any guidance provided by the Court, 11 if I understood that correctly, and I think I've 12 heard it in different settings. 13 All right. My question to you is what, 14 in your opinion, is drawing lines that is 15 predominantly factored using race? 16 SEN. MCKISSICK: Well, what that would 17 amount to is using race to create these majority 18 minority districts where the districts were 19 specifically designed to have high concentrated -- 20 concentrations of African American voters, if there 21 was an excess of 50 percent, and these districts 22 historically had not had African American voters of 23 that level of concentration. 24 So the Court was deeply concerned about 25 the over-concentration of African American voters	86 1 LT. GOV. FOREST: So I'll -- I'll say 2 again that the general direction is germane. But 3 let's -- let's focus our attention on the bill 4 that's before us and the map that's drawn before 5 us, and let's not be completely theoretical in our 6 conversations here. 7 So if we can direct it specifically -- 8 speak -- speak in specifics towards the map that's 9 in front of us, then I will consider that germane. 10 So you may continue, sir. 11 SEN. DAVIS: Okay. Thank you, Mr. 12 President. I'll -- I'll back up and go a different 13 direction, 'cause I've heard a lot of discussion 14 to -- about when Democrats were in office and so 15 forth, you know, that there was political 16 gerrymandering. 17 My only question to you, and I -- and I 18 selected you to answer these questions today, not 19 just because you're my seatmate, but I think you're 20 the longest-serving, at least Democrat around here. 21 But my question is, to your knowledge, did the 22 Democrats ever adopt a criteria that was defined as 23 partisan as -- 24 LT. GOV. FOREST: Senator -- Senator, 25 this exactly what I'm getting at. This is not
1 in those districts, and felt and decided in its 2 opinion that race had been a predominant factor in 3 the drawing of those districts' boundaries. 4 SEN. DAVIS: Okay. Follow-up -- may I 5 ask a follow-up question? 6 LT. GOV. FOREST: Senator McKissick, do 7 you yield? 8 SEN. MCKISSICK: Sure. 9 SEN. DAVIS: When you set a ceiling, 10 perhaps, or a quota, you know, I'm listening to 11 some of the inquiries in terms of what is a set 12 number. Is -- is that something that you think 13 would -- 14 SEN. RUCHO: Mr. President? 15 LT. GOV. FOREST: Senator Rucho, for what 16 purpose -- 17 SEN. RUCHO: Inquiry of the Chair. 18 LT. GOV. FOREST: Senator Rucho. 19 SEN. RUCHO: The line of questioning is 20 dealing with not this map, but something else 21 totally different. Why is that relevant to -- to 22 what we're talking about: the merits of this map 23 and -- and getting a map so that the State of North 24 Carolina can go ahead and have an election if the 25 Supreme Court doesn't agree on the motion to stay.	87 1 germane at this point. If you'll focus 2 specifically on the map that's in front of us, then 3 your -- then your questions can be germane to that 4 map. But now we're talking -- 5 SEN. DAVIS: Mr. President, may I -- 6 LT. GOV. FOREST: Yeah. 7 SEN. DAVIS: May I ask a question of 8 the -- 9 LT. GOV. FOREST: Yes. 10 SEN. DAVIS: -- Chair? 11 LT. GOV. FOREST: Please, Senator. 12 SEN. DAVIS: If this map contains 13 potentially or a criteria that was set to be used 14 to establish the map, would that not be germane? 15 LT. GOV. FOREST: If you speak 16 specifically to the map, that would be germane, 17 yes. So focus on this bill and this map that's in 18 front of us, even in -- even in your questioning. 19 So I think you have a question for 20 Senator McKissick. If you want to speak to the 21 bill, then you can do that, as well. And then 22 we'll talk about the germaneness of that. 23 But right now you're asking a question. 24 So if you'll please continue with your question to 25 Sen. McKissick and allow him to answer.

1 SEN. MCKISSICK: Okay. When it comes to 2 partisan advantage, I have never seen articulated 3 in a set of criteria, language that specifically 4 stated partisan advantage. I've not ever see that 5 ever stated as written criteria at any point in 6 time, nor as criteria which was used that was not 7 articulated. 8 I think that if we look at this new issue 9 that's before us now, a distinct identification in 10 written criteria voted on by a committee of 11 partisan advantage and it -- and a specific map 12 being driven by that partisan advantage, I think it 13 opens up a floodgate of litigation that's likely to 14 come. And this is going to be before the courts 15 for a long, long time. 16 It's unfortunate because I -- I think 17 there was an opportunity to draw a new map as 18 opposed to one that's before us that did not embed 19 partisan advantage and an unfair advantage to -- to 20 one political party when this state is essentially 21 about 50/50. 22 SEN. DAVIS: Thank you. 23 LT. GOV. FOREST: Senator Jackson, for 24 what purpose do you rise? 25 SEN. JACKSON: Speak to the bill.	90	1 And we know the map is politically gerrymandered 2 because Representative Lewis told us so. 3 Debating whether this map is politically 4 gerrymandered is like debating the moon landing. 5 It happened. As my good friend Senator Tillman 6 once said, "It's called 'if you win, you draw the 7 map.'" although I'll accept his challenge to name a 8 state anywhere that has solved this problem. 9 Arizona. California. Hawaii. Idaho. Montana. 10 New Jersey. Washington. Alaska. Arkansas. 11 Colorado. Missouri. Ohio. Pennsylvania. It can 12 be done. 13 Look, I'm not ignoring the fact that my 14 party abused its power over you. None of us are 15 surprised by your vengeance. 16 SEN. RUCHO: Mr. President? 17 LT. GOV. FOREST: Senator Rucho, for what 18 purpose to you arise? 19 SEN. RUCHO: Inquiry of the Chair. 20 LT. GOV. FOREST: Senator Rucho. 21 SEN. RUCHO: We talked about roads. We 22 talked about other things. What does that has to 23 do with this map? 24 LT. GOV. FOREST: Senator -- Senator, 25 I'll allow you to finish, Senator Jackson. Again,	92
1 LT. GOV. FOREST: Senator Jackson, you 2 have the floor. 3 SEN. JACKSON: Until a few years ago, 4 transportation funding in our state was a game of 5 inside polities. Road money was often funneled to 6 certain districts for reasons that had nothing to 7 do with actual transportation needs. 8 Then Senator Harrington, Senator Rabin, 9 Representative Torbett, Representative Brawley came 10 together and did the State a great service. They 11 put in place a new system that elevated simple 12 fairness over partisan polities. The Strategic 13 Transportation Investments Bill was a generational 14 piece of Legislation that brought both sides 15 together to take the politics out of transportation 16 funding. Our state is better for it. 17 Even though the majority party finally 18 had the power to be the ones playing politics with 19 that pot of money, you decided to leave a legacy 20 instead. I bet none of you regret that choice. I 21 bet that's one of the pieces of legislation you are 22 most proud of. 23 Partisan redistricting needs to end. No 24 one can honestly defend drawing maps for the 25 express purpose of favoring one political party.	91	1 focus on the bill. I think you're -- so far, 2 you've been pretty germane here, so keep going 3 and -- but please keep it focused on the map and 4 the bill. 5 SEN. JACKSON: Just like with 6 transportation funding, this is an opportunity to 7 leave a legacy of simple fairness and common 8 decency that will outlast all of us. If you bring 9 an end to partisan redistricting, it will be an act 10 of political courage unlike any this state has seen 11 in a long time. 12 Independent redistricting is the type of 13 legislation that gets politicians into heaven. 14 That may alter the course for some of us. It's a 15 demonstration of truly selfless service. It's 16 proof that we're all here for the right reasons. 17 We could do it today. We could shock the state. 18 We could restore confidence in our elections and 19 set an example for the nation in how both sides -- 20 LT. GOV. FOREST: Senator -- 21 SENATOR JACKSON: -- can come together -- 22 LT. GOV. FOREST: Senator Jackson -- 23 Senator Jackson, now you're straying a bit. So 24 let's focus -- let's focus on the bill at hand. If 25 you have comments related to the bill and comments	93

<p>1 related to the map, please direct them there. 2 We -- we've had a lot of comments, a lot of 3 discussion here, but we're -- we're drifting. So 4 that's -- what you're speaking about is not this 5 bill, currently. So please keep it focused on this 6 bill.</p> <p>7 SEN. JACKSON: This bill was produced by 8 a flawed process. This bill should be denied by 9 this chamber because it was allowed to be produced 10 through a thoroughly partisan process. No system 11 of redistricting is perfect, but ours wins the 12 prize for absolute worst.</p> <p>13 We are living with an open acknowledgment 14 that we draw the map to favor one party. This map. 15 In a few years that's going to seem about as 16 strange and sad as Jim Crow laws seem to us now. 17 The process that produced this map is not going to 18 age well. By the -- by the time it is finally put 19 to rest, public opinion on the matter will be harsh 20 and unanimous. Be the ones who finished partisan 21 redistricting.</p> <p>22 In a moment I'm going to offer an 23 amendment that would allow us to do that. I feel 24 confident in predicting that this amendment has 25 less than a 50 percent chance of becoming law</p>	<p>94</p> <p>1 LT. GOV. SMITH: Senator Smith, you have 2 the floor to speak to the bill.</p> <p>3 SEN. SMITH: I just would like to point 4 out to this body that in the course of six years, 5 my home county of Robeson will have been in three 6 different Congressional districts.</p> <p>7 For years we had been in District 7. In 8 the 2011 -- 2011 redistricting, most of Robeson 9 County was moved out of the 7th District in an 10 effort of political gerrymandering to remove 11 Congressman McIntyre's home and base of support 12 from the 7th District, and we were placed in the 13 8th District. Now, with this map, we will be moved 14 to the 9th District.</p> <p>15 I've heard from a number of residents of 16 Robeson County that are not happy about this, find 17 it confusing, and do not understand why we have to 18 change districts so often.</p> <p>19 So I just wanted to let this body know 20 that that has -- is the case with this map. We 21 will have been in three districts in six years.</p> <p>22 LT. GOV. FOREST: Senator Tarte, for what 23 purpose do you rise?</p> <p>24 SEN. TARTE: To ask Senator Rucho a 25 question.</p> <p>95</p> <p>1 today. I think that's a safe statement. 2 I'm not doing this to be a burden or hold 3 things up. I'm doing this to remind people that 4 there is a solution to this problem. Our democracy 5 is very sick, and there's good medicine on the 6 shelf.</p> <p>7 If not this amendment, if not today, then 8 know that I stand ready to work with any member of 9 this Chamber on stepping out of this dark corner of 10 our democracy.</p> <p>11 With that, I'd like to submit an 12 amendment, and then I yield the floor to Senator 13 Apodaca.</p> <p>14 LT. GOV. FOREST: Send forth your 15 amendment.</p> <p>16 Senator, I don't think you need to yield 17 to Senator Apodaca because according to our own 18 rules today, Rule 36.2, this amendment would be 19 ineligible. So it's an ineligible amendment and 20 it -- we won't be bringing that forward.</p> <p>21 Any other discussion or debate?</p> <p>22 SEN. SMITH: Mr. President --</p> <p>23 LT. GOV. FOREST: Senator Smith, for what 24 purpose do you rise?</p> <p>25 SEN. SMITH: To speak on the bill.</p> <p>97</p> <p>1 LT. GOV. FOREST: Senator Rucho, do you 2 yield?</p> <p>3 SEN. RUCHO: Yes, sir.</p> <p>4 SEN. TARTE: Senator Rucho, was the 5 Court's ruling that District 1 and District 12 were 6 unconstitutional?</p> <p>7 SEN RUCHO: Senator Tarte, the Court did 8 say that District 1 and District 12 were 9 unconstitutional, yes, sir.</p> <p>10 SEN. TARTE: Follow-on question?</p> <p>11 LT. GOV. FOREST: Senator Rucho, do you 12 yield?</p> <p>13 SEN. RUCHO: Yes, sir.</p> <p>14 SEN. TARTE: Did the courts give us any 15 direction to change the composition of the North 16 Carolina Congressional delegation?</p> <p>17 SEN. RUCHO: The delegation -- the 18 district --</p> <p>19 SEN. TARTE: The delegation, the 20 composition, how many Democrats, how many 21 Republicans they required it to be?</p> <p>22 SEN. RUCHO: No, sir.</p> <p>23 SEN. TARTE: May I speak on the bill?</p> <p>24 LT. GOV. FOREST: Senator Tarte, you have 25 the floor to speak to the bill.</p>
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1 SEN. TARTE: This is just a simple 2 reminder for everybody in the Chamber, we're going 3 way off scope. If -- and this comes back to 4 Senator Clark's comments. 5 The Court said we have two districts that 6 are basically gerrymandered. They didn't say we 7 need to change the composition of the delegation. 8 In due respect, we have a very limited 9 scope and a very limited time frame. And that's to 10 fix District 1 and District 12. 11 I just Googled the -- "gerrymandering," 12 the term. Those two districts appear right at the 13 beginning. Look at the current maps. They're 14 crazy. What did this -- the current maps do, in 15 the work of the select committee, both parties, it 16 has fixed clearly District 1 and District 12 are 17 compact, they address what we do, and it keeps the 18 delegation, whether we like it or not, in the same 19 composition, the ten to three. 20 We can debate and go on about what 21 redistricting should be, how it should be comprised 22 going forward, how we're going to draw maps in the 23 future. That's not the task at hand. The task is 24 to fix two districts, get on with, submit it back 25 to the Court, and complete our work. I suggest	98	1 LT. GOV. FOREST: Senator, you have the 2 floor. 3 SEN. STEIN: I can't speak to that. I -- 4 I can't get in the mind of the judges. 5 LT. GOV. FOREST: Senator Robinson, for 6 what purpose do you rise? 7 SEN. ROBINSON: To speak to the bill. 8 LT. GOV. FOREST: Senator Robinson, you 9 have the floor. 10 SEN. ROBINSON: Thank you, Mr. President. 11 And ladies and gentlemen, I certainly won't waste 12 time asking questions again, but I would not be 13 representative of Guilford County and Greensboro if 14 I were not able to talk for the citizens of my area 15 who, unfortunately, because of the snow and ice, 16 could not get there to make their comments. And I 17 know some that sent those in, so I won't blame you 18 for the weather 'cause you don't have that much 19 power. 20 However, when we look at this map, we 21 know that this map is clearly an act of racial and 22 partisan packing. And we talked about that before. 23 We know that in the 13th District, where you talk 24 about not disenfranchising people, where 25 Congresswoman Alma Adams is placed in the new map,	100
1 that's what these maps do right now. They're not 2 perfect, but they address the Court's directive. 3 Thank you. 4 SEN. SMITH-INGRAM: Mr. President? 5 LT. GOV. FOREST: Senator Smith-Ingram, 6 for what purpose do you rise? 7 SEN. SMITH-INGRAM: To see if Senator 8 Stein will yield for a question. 9 LT. GOV. FOREST: Senator Stein, do you 10 yield? 11 SEN. STEIN: I do. 12 SEN. SMITH-INGRAM: Senator Stein, 13 listening to the debate, I got a little bit 14 confused because like Senator Rucio, I am not an 15 attorney. And you explained it well, so -- so much 16 earlier. 17 But I've read the case and I read the 18 opinion, and it appears that the maps were rejected 19 because they could not meet the high standard of 20 strict scrutiny. If these maps right here were 21 submitted, can you explain to me, do you think as 22 presented and as redrawn, would they be able to 23 meet that strict scrutiny if race was not a 24 predominant factor. 25 SEN. STEIN: I have -- Mr. President?	99	1 there's only 21 percent African Americans in that 2 district. And she was overwhelming elected by 3 African Americans and Democrats in the 12th 4 District. 5 The other issue here is that in the new 6 District 13, any African American or Democrat can't 7 be elected. So that is partisan packing and that 8 is disenfranchising a group of people because of 9 how the African Americans -- and I've looked at 10 that 13th, and it's most of my district, and how 11 it's lumped in with mostly Republican areas all 12 around it, which makes it virtually impossible to 13 elect another African American -- another Democrat 14 and African American, Angela. 15 This, to me, while you're talking about 16 maintaining -- and certainly, you can maintain the 17 3 and the 10, however. But when you're taking one 18 incumbent and you're targeting that one incumbent, 19 and that incumbent is only the second African 20 American woman elected from this state since it 21 began to elect African Americans during -- after 22 Reconstruction, and then make it almost virtually 23 impossible to elect another, either Democrat or 24 African American, in that area, then this smacks 25 of -- in the face of equal protection under the	101

1 law. 2 I'm not surprised, of course, by these 3 actions. There's a cultural -- a culture of racial 4 inequality has been deepened on this side of the 5 aisle. It saddens me, however, to think that this 6 is how we operate in Raleigh, and it is controlled 7 still by male gerrymandering. This is a sad day to 8 me for women across the state in terms of equal 9 protection and fairness, and even sadder in terms 10 of a growing majority of minorities in the state of 11 North Carolina who should be able to expect that 12 they could elect their representatives. 13 LT. GOV. FOREST: Senator Brown, for what 14 purpose do you rise? 15 SEN. BROWN: Just quickly respond to 16 Senator Robinson's comments. 17 LT. GOV. FOREST: Senator Brown, you have 18 the floor to speak a second time. 19 SEN. BROWN: Senator Robinson, I was 20 looking at District 13, I guess it was. Let's see. 21 That's right. You were talking about Senate 22 District 13. 23 In the 2012 election, both our Treasurer, 24 Janet Cowell, who is a Democrat, won that district. 25 And also our Superintendent of Public Instruction,	102 1 that are on the page that I read said 21 percent. 2 And we know that that is a difficult place. 3 Now, on the other side, if I were to 4 run -- excuse me, Mr. President -- I'd expect your 5 support. 6 LT. GOV. FOREST: Any further discussion 7 or debate? 8 (No response) 9 LT. GOV. FOREST: Hearing none -- Senator 10 Berger, for what purpose to do rise? 11 SEN. BERGER: Mr. President, to speak on 12 the bill. 13 LT. GOV. FOREST: Senator Berger, you 14 have the floor. 15 SEN. BERGER: Thank you, Mr. President. 16 I hesitated because I didn't know if the Minority 17 Leader was going to speak, so I -- this has been 18 interesting, to say the least. 19 And I think one of the challenges that 20 the folks on the back row have is that they got a 21 decision that they really like the result, but 22 they're not really too crazy about the rationale 23 that got them that result, because you see, the -- 24 the three-judge panel was pretty clear that race 25 should not be used as a factor.
1 June Atkinson, won that district. So I'm not sure 2 that you've looked at the numbers to be able to 3 make that argument because in that case, two women, 4 both Democrats, won that particular district. 5 So I think it's a very competitive 6 district, and I -- I think a district a Democrat 7 can win and a woman, obviously, can win. So I just 8 felt like you -- you need to look at those numbers 9 because it is a very competitive district. 10 LT. GOV. FOREST: Senator Robinson, for 11 what purpose do you rise? 12 SEN. ROBINSON: I'm not sure whether 13 Senator Brown was asking a question or just making 14 a comment. 15 LT. GOV. FOREST: I think he was just -- 16 just speaking a second time. Senator Robinson -- 17 SEN. ROBINSON: Just a friendly comment? 18 Okay. Well -- 19 LT. GOV. FOREST: -- would you like to 20 speak a second time? 21 SEN. ROBINSON: Yes. Would I -- could -- 22 LT. GOV. FOREST: You have the floor, 23 Senator. 24 SEN. ROBINSON: Thank you, Senator Brown, 25 for that, but I do acknowledge that the numbers	103 1 In fact, at the beginning of the -- of 2 the decision, the Court made clear that by quoting 3 some -- some other cases, that by assigning voters 4 to certain districts based on the color of their 5 skin, states risk entangling in the offensive and 6 demeaning assumption that voters of a particular 7 race, because of their race, think alike, share the 8 same political interests, and will prefer the same 9 candidates at the poles. 10 And so the Court was telling us at that 11 point we should avoid -- avoid that. And so moving 12 further along that line, the Court had one problem 13 in getting to the result that it wanted. And that 14 problem was the Strickland case. And so the maps 15 that were drawn in 2011 were drawn because of the 16 criteria that was required based on case law from 17 the Strickland case in particular. 18 But the Court found, which is really an 19 interesting thing, because most of the discussion 20 has been about whether race was a factor, and then 21 we got into the discussion of whether politics was 22 a factor. But the Court specifically found that -- 23 well, the Court concludes that Section 2 did not 24 require the defendants to create a majority 25 minority district in Senate District -- I'm sorry,

1 Congressional District 1. 2 The Court also found -- the Court finds 3 that the defendants failed to show the third 4 Gingles factor that the Legislature had a strong 5 basis in evidence of racially polarized voting in 6 Congressional District 1, significant enough that 7 the white majority routinely votes as a block to 8 defeat the minority candidate of choice. So in 9 other words, what the Court found was there was no 10 racially polarized voting in Congressional District 11 1. 12 Now, it's been said that the reason they 13 didn't find it is because there was no study done. 14 Well, my experience has been that if a Court feels 15 it needs evidence about something and feels that 16 something is -- is necessary, they send the case 17 back or they defer a ruling for that evidence to be 18 presented to them. So the Court felt like that it 19 had sufficient evidence to make a decision and to 20 make a decision that there was no racially 21 polarized voting. 22 Now, at that point, the question becomes, 23 well, what -- what do you do? How do you draw the 24 maps? And so what was done in this case is that 25 criteria were drawn up. Now, some folks have	106	1 been to maximize political advantage, that you 2 could have drawn -- with the technology that's 3 available today, you could have drawn an 11/2, or 4 maybe even a 12/1 map. But it would have been god- 5 awful looking. And it would not have been this. 6 I can -- I can almost assure you that if 7 you want to Google -- if you want to Google 8 "gerrymander," this is not a map that will come up 9 because it's compact, it doesn't split very many 10 counties, it doesn't split very many districts, it 11 doesn't have a bunch of squiggly lines, it follows 12 natural boundaries. 13 It is a map that in the -- in the 14 definition that most North Carolinians use for 15 gerrymandering, which is a map that has a bunch of 16 squiggly lines and looks like a salamander -- 17 remember "gerrymander" comes from the term that 18 came out of Massachusetts where someone drew for 19 themselves -- his name was Gerry-something -- and 20 they -- somebody said it looks like a salamander, 21 and they said, "No, it's a gerrymander." So it was 22 the visual aspect that was the problem, and it's 23 the visual aspect that I think most people, most 24 North Carolinians, most people have a difficulty 25 with.	108
1 wanted to concentrate on one of the criteria, but 2 the -- the reality is that these maps were drawn to 3 harmonize the criteria. And so the criteria -- and 4 I -- I -- I'll just read -- read from the list. 5 You've all seen them. 6 Equal population. So the maps have to -- 7 have to have equal population in the districts. 8 Contiguity. I apologize for my inability to 9 pronounce certain words. Political data. Partisan 10 advantage. 11 The 12th District, the Court specifically 12 found that the makeup or -- or the -- the visual of 13 the 12th District was something that troubled the 14 Court and wanted something done about that. A lot 15 of folks have complained about the 12th District. 16 Compactness and incumbency. Those are 17 all legitimate criteria for this Legislature to 18 take into account in drawing districts. 19 Because of the Court's finding of no 20 racially polarized voting, it was determined that 21 that -- that race should not be a factor in drawing 22 the districts. And that's why the districts were 23 drawn as -- as they were drawn. And they were 24 drawn to harmonize all of these factors. 25 I have no question that if the goal had	107	1 Members, this Court has put this 2 Legislature in a difficult position with reference 3 to timing. Has put us in a difficult position with 4 reference to the instructions it's given us. And 5 the reason we're in this position is because the 6 Court has come up with a result that's a political 7 result. And that's why the folks on the back row 8 are happy with it, because it's a political result 9 that they wanted. But the rationale does not 10 necessarily mean that the maps come out politically 11 the way the Democratic Party would like for them to 12 come out. 13 There are legal precedents that need to 14 be followed. We have taken the appropriate 15 criteria that the Courts have -- have allowed in 16 the past, and we've harmonized those criteria, and 17 that criteria has resulted in this map, which I 18 think complies with the Court's decision, complies 19 with the decisions of previous Courts, and is a map 20 that -- that you should feel very comfortable 21 voting for, and I urge you to do so. 22 LT. GOV. FOREST: Any further discussion 23 or debate? 24 (No response) 25 LT. GOV. FOREST: Hearing none, the	109

<p style="text-align: center;">110</p> <p>1 question before the Senate is the passage of Senate 2 Bill 2 on the second reading. 3 All in favor, vote "aye," opposed vote 4 "no." Five seconds will be allowed for the voting. 5 The clerk will record the vote. 6 32 having voted in the affirmative and 15 7 in the negative, Senate Bill 2 passes at second 8 reading, and will be read a third time. Be read a 9 third time.</p> <p>10 CLERK: North Carolina General Assembly. 11 LT. GOV. FOREST: Any further discussion 12 or debate?</p> <p>13 (No response)</p> <p>14 LT. GOV. FOREST: Hearing none, all in 15 favor of the passage of Senate Bill 2 on its third 16 reading will vote "aye," opposed will vote "no." 17 Five seconds will be allowed for the voting. The 18 clerk will record the vote.</p> <p>19 Hise, aye. 32 having voted in the 20 affirmative and 15 in the negative, Senate Bill 2 21 passes its third reading, and it will be sent to 22 the House.</p> <p>23 That wraps up our calendar today. Do we 24 have any notices or announcements.</p> <p>25 SEN. APODACA: Mr. President?</p>	<p style="text-align: center;">112</p> <p>1 seatmate of Senator Mike Woodard. Senator Woodard 2 has been a tremendous help to me this year as a 3 newbie in this body, answering questions, giving 4 advice, basically being a great mentor. And I 5 appreciate it very much, and would like to thank 6 him for that.</p> <p>7 This Saturday is Senator Woodard's 8 birthday. And I would ask -- hope that all of you 9 will join me in wishing him, in advance, a very 10 happy birthday Saturday.</p> <p>11 LT. GOV. FOREST: Happy birthday, 12 Senator.</p> <p>13 Senator Gunn, for what purpose do you 14 rise?</p> <p>15 SEN. GUNN: A moment of personal 16 privilege.</p> <p>17 LT. GOV. FOREST: Senator Gunn, you have 18 the floor.</p> <p>19 SEN. GUNN: I just want to let this body 20 know -- I know we have a lot of discussion time. 21 Sometimes we don't agree on everything. But one 22 thing we -- we've always been great about is 23 supporting each other and especially when 24 somebody's a little -- little down on their luck. 25 And I just want to give you an update on Senator</p>
<p style="text-align: center;">111</p> <p>1 LT. GOV. FOREST: Senator Apodaca, for 2 what purpose do you rise?</p> <p>3 SEN. APODACA: We need it sent special 4 messenger, please.</p> <p>5 LT. GOV. FOREST: So ordered. Senator 6 Tillman, for what purpose do you rise?</p> <p>7 SEN. TILLMAN: Thank you, Mr. President. 8 Moment of personal privilege.</p> <p>9 LT. GOV. FOREST: Senator Tillman, you 10 have the floor.</p> <p>11 SEN. TILLMAN: I want to thank my good 12 friend Robert Rucho for his hard work and his 13 committee and our staff people that have done a 14 tremendous job on this in a short time.</p> <p>15 But I've been thinking, we need -- we do 16 need a term where -- with "mandering" in it. And 17 my good friend Senator Brock just -- I'm stealing 18 this from him. He didn't want to say it. We do 19 need to use a new term. "Rucho-mandering." These 20 district are short, fat, and compact.</p> <p>21 LT. GOV. FOREST: Senator Smith, for what 22 purpose do you rise? Senator Smith, you have the 23 floor for a moment, personal privilege.</p> <p>24 SEN. SMITH: Okay. Thank you, Mr. 25 President. I have the privilege of being a</p>	<p style="text-align: center;">113</p> <p>1 Thom McInnis. 2 I have talked to him before surgery and 3 after. His break is a real break. He fell getting 4 out of the shower and literally broke the ball off 5 of the shoulder in half, and then the bone 6 splintered. And he has had a -- a pretty difficult 7 surgery on Tuesday. And it went well. He's got a 8 steel plate and 12 screws in his shoulder. So he's 9 going to be -- he's going to be on the mend for 10 quite some time. 11 I will tell you one good news is it's 12 obvious all the shoulder surgery and -- and some of 13 the drugs, anesthesia and everything he's on, has 14 not in any way stopped his conversation. He was -- 15 he was rather jovial today, as he always is. 16 But if you think about it, you might just 17 want to drop him a note or -- or give him a little 18 call. He's -- he's got a little ways to go before 19 he recovers, and I just wanted to give everybody an 20 update. 21 LT. GOV. FOREST: Senator Brock, for what 22 purpose do you rise? 23 SEN. BROCK: To make an announcement. 24 LT. GOV. FOREST: Senator Brock, you have 25 the floor.</p>

<p>1 SEN. BROCK: First of all, Jerry, I would 2 never, ever say that publicly about Bob. 3 The -- but I'd like to announce that on 4 February 2nd, Andrea and I welcomed our third 5 child, a boy, Turner Ward Brock, 7 pounds, 5 6 ounces. And -- and he's one of the pride and joys 7 and our life. But my wife texted me while we were 8 in session. And since we've been here today, he's 9 learned to walk, talk, and drive a car. So it's 10 time to go home. 11 LT. GOV. FOREST: Is there any further 12 business to come before the Senate? If not, the 13 Chair recognizes Senator Berger for a motion. 14 SEN. BERGER: Thank you, Mr. Chairman. I 15 move that the Senate do now adjourn subject to the 16 standard stipulations set forth in Senate Rule 17 24.1, filing of bills, the receipt of committee 18 reports, appointments to committees, ratification 19 of bills, and the receipt of House messages to 20 reconvene tomorrow, Friday, at 9:30 am. 21 LT. GOV. FOREST: The motion is the 22 Senate do now adjourn subject to the stipulations 23 stated by Senator Berger to reconvene Friday, 24 February 19th at 9:30 am. Seconded by Senator 25 Apodaca. All in favor say "aye."</p>	114	<p>116</p> <p>STATE OF NORTH CAROLINA COUNTY OF GRANVILLE CERTIFICATE I, Robbie W. Worley, a duly commissioned Notary Public in and for the State of North Carolina, do hereby certify that on February 18, 2016, this proceeding was held before me at the time and place aforesaid, that all parties were present as represented, and that the record as set forth in the preceding pages represents a true and accurate transcription of the proceedings to the best of my ability and understanding. IN WITNESS WHEREOF, I have hereto set my hand, this the 28th day of February, 2016.</p>
<p>1 (Verbal vote.) 2 LT. GOV. FOREST: Opposed "no." They 3 ayes have it. Senate stands adjourned. 4 (THE PROCEEDINGS IN THIS MATTER ADJOURNED AT 2:26 P.M.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	115	